

**H.R. 280, H.R. 704, H.R. 1399,  
H.R. 1594, H.R. 1618, H.R. 1798,  
H.R. 1862 AND H.R. 2909**

---

---

## **LEGISLATIVE HEARING**

BEFORE THE  
SUBCOMMITTEE ON NATIONAL PARKS, RECREATION,  
AND PUBLIC LANDS  
OF THE  
COMMITTEE ON RESOURCES  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED EIGHTH CONGRESS  
FIRST SESSION

Thursday, October 16, 2003

**Serial No. 108-69**

Printed for the use of the Committee on Resources

(

Available via the World Wide Web: <http://www.access.gpo.gov/congress/house>  
or  
Committee address: <http://resourcescommittee.house.gov>

U.S. GOVERNMENT PRINTING OFFICE

89-893 PS

WASHINGTON : 2004

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Internet: [bookstore.gpo.gov](http://bookstore.gpo.gov) Phone: toll free (866) 512-1800; DC area (202) 512-1800  
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

## COMMITTEE ON RESOURCES

RICHARD W. POMBO, California, *Chairman*  
NICK J. RAHALL II, West Virginia, *Ranking Democrat Member*

|                                      |                                       |
|--------------------------------------|---------------------------------------|
| Don Young, Alaska                    | Dale E. Kildee, Michigan              |
| W.J. "Billy" Tauzin, Louisiana       | Eni F.H. Faleomavaega, American Samoa |
| Jim Saxton, New Jersey               | Neil Abercrombie, Hawaii              |
| Elton Gallegly, California           | Solomon P. Ortiz, Texas               |
| John J. Duncan, Jr., Tennessee       | Frank Pallone, Jr., New Jersey        |
| Wayne T. Gilchrest, Maryland         | Calvin M. Dooley, California          |
| Ken Calvert, California              | Donna M. Christensen, Virgin Islands  |
| Scott McInnis, Colorado              | Ron Kind, Wisconsin                   |
| Barbara Cubin, Wyoming               | Jay Inslee, Washington                |
| George Radanovich, California        | Grace F. Napolitano, California       |
| Walter B. Jones, Jr., North Carolina | Tom Udall, New Mexico                 |
| Chris Cannon, Utah                   | Mark Udall, Colorado                  |
| John E. Peterson, Pennsylvania       | Anibal Acevedo-Vila, Puerto Rico      |
| Jim Gibbons, Nevada,                 | Brad Carson, Oklahoma                 |
| <i>Vice Chairman</i>                 | Raul M. Grijalva, Arizona             |
| Mark E. Souder, Indiana              | Dennis A. Cardoza, California         |
| Greg Walden, Oregon                  | Madeleine Z. Bordallo, Guam           |
| Thomas G. Tancredo, Colorado         | George Miller, California             |
| J.D. Hayworth, Arizona               | Edward J. Markey, Massachusetts       |
| Tom Osborne, Nebraska                | Ruben Hinojosa, Texas                 |
| Jeff Flake, Arizona                  | Ciro D. Rodriguez, Texas              |
| Dennis R. Rehberg, Montana           | Joe Baca, California                  |
| Rick Renzi, Arizona                  | Betty McCollum, Minnesota             |
| Tom Cole, Oklahoma                   |                                       |
| Stevan Pearce, New Mexico            |                                       |
| Rob Bishop, Utah                     |                                       |
| Devin Nunes, California              |                                       |
| Randy Neugebauer, Texas              |                                       |

Steven J. Ding, *Chief of Staff*  
Lisa Pittman, *Chief Counsel*  
James H. Zoia, *Democrat Staff Director*  
Jeffrey P. Petrich, *Democrat Chief Counsel*

---

SUBCOMMITTEE ON NATIONAL PARKS, RECREATION,  
AND PUBLIC LANDS

GEORGE P. RADANOVICH, California, *Chairman*

DONNA M. CHRISTENSEN, Virgin Islands, *Ranking Democrat Member*

|   |   |
|---|---|
| Elton Gallegly, California                      | Dale E. Kildee, Michigan                            |
| John J. Duncan, Jr., Tennessee                  | Ron Kind, Wisconsin                                 |
| Wayne T. Gilchrest, Maryland                    | Tom Udall, New Mexico                               |
| Barbara Cubin, Wyoming                          | Mark Udall, Colorado                                |
| Walter B. Jones, Jr., North Carolina            | Anibal Acevedo-Vila, Puerto Rico                    |
| Chris Cannon, Utah                              | Raul M. Grijalva, Arizona                           |
| John E. Peterson, Pennsylvania                  | Dennis A. Cardoza, California                       |
| Jim Gibbons, Nevada                             | Madeleine Z. Bordallo, Guam                         |
| Mark E. Souder, Indiana                         | Nick J. Rahall II, West Virginia, <i>ex officio</i> |
| Rob Bishop, Utah                                |   |
| Richard W. Pombo, California, <i>ex officio</i> |   |



# C O N T E N T S

|  |           |
|--|-----------|
| Hearing held on Thursday, October 16, 2003 .....   | Page<br>1 |
| Statement of Members:  |           |
| Bishop, Hon. Rob, a Representative in Congress from the State of Utah ...  | 9         |
| Prepared statement on H.R. 2909 .....  | 11        |
| McInnis, Hon. Scott, a Representative in Congress from the State of Colorado .....   | 3         |
| Prepared statement on H.R. 1399 .....  | 4         |
| Radanovich, Hon. George P., a Representative in Congress from the State of California .....  | 2         |
| Prepared statement of .....  | 2         |
| Schiff, Hon. Adam, a Representative in Congress from the State of California .....   | 6         |
| Prepared statement on H.R. 704 .....   | 7         |
| Udall, Hon. Mark, a Representative in Congress from the State of Colorado, on H.R. 1399 .....  | 8         |
| Statement of Witnesses:  |           |
| Bear, Leon D. Chairman, Skull Valley Band of Goshute Indians, Salt Lake City, Utah .....   | 55        |
| Prepared statement on H.R. 2909 .....  | 57        |
| Groene, Scott, Southern Utah Wilderness Alliance, Washington, D.C. ....  | 51        |
| Prepared statement on H.R. 2909 .....  | 52        |
| Hardiman, Mike, Legislative Director, American Land Rights Association, Washington, D.C. ....  | 63        |
| Prepared statement on H.R. 704 .....   | 64        |
| Hughes, Jim, Deputy Director of Land Management, Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. ....                     | 14        |
| Prepared statement on H.R. 2909 .....  | 15        |
| Johnson, Randy, Deputy Director of Planning for Public Lands, State of Utah, Salt Lake City, Utah .....  | 48        |
| Prepared statement on H.R. 2909 .....  | 49        |
| Loman, Jeffrey, Acting Director, Trust Services, Bureau of Indian Affairs, U.S. Department of the Interior, Washington, D.C. ....                      | 15        |
| Prepared statement on H.R. 2909 .....  | 15        |
| Pease, Gerald F., Jr., Associate Director for Ranges and Airspace, U.S. Air Force, Washington, D.C. ....   | 18        |
| Prepared statement on H.R. 2909 .....  | 19        |
| Portantino, Hon. Anthony, Member, Santa Monica Mountains Conservancy Advisory Committee, La Canada Flintridge, California ....                         | 59        |
| Prepared statement on H.R. 704 .....   | 61        |
| Tiller, deTeel Patterson, Acting Associate Director, Cultural Resources, National Park Service, U.S. Department of the Interior, Washington, D.C. .... | 20        |
| Prepared statement on H.R. 280 .....   | 22        |
| Prepared statement on H.R. 704 .....   | 25        |
| Prepared statement on H.R. 1399 .....  | 26        |
| Prepared statement on H.R. 1594 .....  | 28        |
| Prepared statement on H.R. 1618 .....  | 30        |
| Prepared statement on H.R. 1798 .....  | 32        |
| Prepared statement on H.R. 1862 .....  | 35        |



**LEGISLATIVE HEARING ON H.R. 280, TO ESTABLISH THE NATIONAL AVIATION HERITAGE AREA, AND FOR OTHER PURPOSES; H.R. 704, TO DIRECT THE SECRETARY OF THE INTERIOR AND THE SECRETARY OF AGRICULTURE TO CONDUCT A JOINT SPECIAL RESOURCES STUDY TO EVALUATE THE SUITABILITY AND FEASIBILITY OF ESTABLISHING THE AREA KNOWN AS THE RIM OF THE VALLEY CORRIDOR AS A UNIT OF THE SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA IN THE STATE OF CALIFORNIA, AND FOR OTHER PURPOSES; H.R. 1399, TO REVISE THE BOUNDARY OF THE BLACK CANYON OF THE GUNNISON NATIONAL PARK AND GUNNISON GORGE NATIONAL CONSERVATION AREA IN THE STATE OF COLORADO, AND FOR OTHER PURPOSES; H.R. 1594, TO DIRECT THE SECRETARY OF THE INTERIOR TO CONDUCT A STUDY OF THE SUITABILITY AND FEASIBILITY OF ESTABLISHING THE ST. CROIX NATIONAL HERITAGE AREA IN ST. CROIX, UNITED STATES VIRGIN ISLANDS, AND FOR OTHER PURPOSES; H.R. 1618, TO ESTABLISH THE ARABIA MOUNTAIN NATIONAL HERITAGE AREA IN THE STATE OF GEORGIA, AND FOR OTHER PURPOSES; H.R. 1798, TO ESTABLISH THE UPPER HOUSATONIC VALLEY NATIONAL HERITAGE AREA IN THE STATE OF CONNECTICUT AND THE COMMONWEALTH OF MASSACHUSETTS, AND FOR OTHER PURPOSES; H.R. 1862, TO ESTABLISH THE OIL REGION NATIONAL HERITAGE AREA; AND H.R. 2909, TO ENSURE THE CONTINUED AVAILABILITY OF THE UTAH TEST AND TRAINING RANGE TO SUPPORT THE READINESS AND TRAINING NEEDS OF THE ARMED FORCES.**

---

**Thursday, October 16, 2003  
U.S. House of Representatives  
Subcommittee on National Parks, Recreation, and Public Lands  
Committee on Resources  
Washington, DC**

---

The Subcommittee met, pursuant to call, at 2:07 p.m., in Room 1334, Longworth House Office Building, Hon. George P. Radanovich [Chairman of the Subcommittee] presiding.

Present: Representatives Radanovich, Duncan, Cannon, Peterson, Bishop, Tom Udall, Mark Udall and Bordallo.

**STATEMENT OF HON. GEORGE RADANOVICH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. RADANOVICH. Good afternoon. The Subcommittee on National Parks, Recreation and Public Lands will come to order. Today, we are conducting a hearing on the following bills: H.R. 704, H.R. 1399 and H.R. 2909. Our first bill is H.R. 704, introduced by Congressman Adam Schiff of California. It authorizes the Secretary of the Interior to conduct a special resources study to determine the feasibility and suitability of establishing an area known as the Rim of the Valley as a unit of the Santa Monica Mountain National Recreation Area. Our second bill is H.R. 1399, introduced by our Committee colleague, Congressman Scott McInnis of Colorado, authorizing the Secretary of the Interior to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado.

Our third bill, H.R. 2909, introduced by our Subcommittee colleague, Congressman Rob Bishop of Utah, would ensure the continued availability of the Utah Test and Training Range to support the readiness and training needs of the armed forces. In addition, the Subcommittee will receive testimony from the National Park Service on H.R. 280, 1594, 1618, 1862, and 1798, legislation to either establish a National Heritage Area or authorizing a study to establish a National Heritage Area. The Administration was unable to present its testimony before the Subcommittee on most of these bills on September 16.

[The prepared statement of Mr. Radanovich follows:]

**Statement of The Honorable George Radanovich, a Representative in Congress from the State of California**

The Subcommittee will come to order.

Good afternoon. The Subcommittee on National Parks, Recreation and Public Lands will conduct a hearing today on the following bills—H.R. 704, H.R. 1399 and H.R. 2909.

Our first bill, H.R. 704, introduced by Congressman Adam Schiff of California, authorizes the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of establishing an area known as "Rim of the Valley" as a unit of the Santa Monica Mountain National Recreation Area.

Our second bill, H.R. 1399, introduced by our Committee colleague, Congressman Scott McInnis of Colorado, authorizes the Secretary of the Interior to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado.

Our third bill, H.R. 2909, introduced by our Subcommittee Colleague, Congressman Rob Bishop of Utah, would ensure the continued availability of the Utah Test and Training Range to support the readiness and training needs of the Armed Forces.

In addition, the Subcommittee will receive testimony from the National Park Service only on H.R. 280, H.R. 1594, H.R. 1618, H.R. 1862, and H.R. 1798, legislation to either establish a national heritage area or authorize a study to establish a national heritage area. The Administration was unable to present its testimony before the Subcommittee on most of these bills on September 16.

I would ask unanimous consent that Mr. Schiff be permitted to sit on the dais following his statement. Without objection, so ordered.

I understand that our Ranking Member, Ms. Christensen will not be here today and I ask unanimous consent that her statement be submitted for the record. Without objection, so ordered.



Mr. RADANOVICH. I would also ask unanimous consent that Mr. Schiff be permitted to sit on the dais following his statement. Without objection, so ordered. And I understand that our Ranking Member, Mrs. Christensen, from the Virgin Islands, will not be here today, and I ask unanimous consent that her statement be submitted for the record. With no objection, so ordered.

Mr. RADANOVICH. Gentlemen, welcome to the Committee. Our colleague, Chairman of the Forest Subcommittee, Mr. McInnis, is with us. Scott, welcome to the Committee, and please begin your testimony on your bill.

**STATEMENT OF HON. SCOTT MCINNIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO**

Mr. MCINNIS. Thank you, Mr. Chairman.

Mr. Chairman, I do thank you for holding the hearing on this bill, H.R. 1399, the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Boundary Revision Act of 2003. I introduced similar legislation in the 107th, and I appreciate the important step forward with today's hearing.

In 1999, I introduced legislation that established this Park and National Conservation Area, so my love of this place and belief in its continued protection is obvious. As you know, Mr. Chairman, I am a strong believer in local consensus and the preservation of Western values. The Park and the NCA were established on those ideals, and I am pleased that the bill I bring before you today continues on that path. H.R. 1399 does four things: first, it authorizes the Secretary to acquire up to 2,725 acres through purchase or exchange with three willing—and I stress willing—landowners. Second, it ensures that grazing rights are transferred with these exchanges. Third, it guarantees that water facilities used to irrigate the farm land in the Incompadre Valley remain available under the Bureau of Reclamation jurisdiction for the local water users association to operate. And last, the land incorporates BLM into the NCA that was in the process of being acquired prior to the passage of the 1999 legislation.

Legislation was originally scheduled for a hearing last June, after Senator Campbell successfully sought it in the U.S. Senate. I pulled the bill, however, because I wanted to ensure that the water rights involved with those land transactions would remain protected for the people of the State of Colorado. After working with the landowners and the conservation fund, I am now comfortable with the commitment that the landowners have made and am eager to see this bill move forward.

This bill seeks to protect valuable natural resources by working cooperatively with three local ranchers who have been good stewards on their land for years. Unfortunately, these landowners have hit hard financial times and were considering selling their parcels. Thankfully, they have put preserving the integrity of the Park over subdividing the land and building condominiums. Instead, they approached the Park Service and came up with innovative alternatives to sell outright, which required this legislation. Local county commissioners, the local Chamber of Commerce and the land trusts involved support these proposals, and the Park will develop

additional public-private partnerships to manage this beautiful area.

In short, the three landowners have entered into either equal value land swaps or agreed to conservation easements across that land. The Brandolet family has agreed to an equal exchange of parcels which will give them easier access while enhancing the landscape of the Park. The Allison family will exchange both a fee simple parcel of land and a conservation easement, providing the family with more acreage to their ranch while allowing the Park to protect a key area. Last, the Sandburg family plans to donate a portion of their property to the Park for a conservation easement to preserve their resource values they have protected for many decades.

Again, Mr. Chairman, I want to strongly emphasize that all of these exchanges came about at the request of the landowners. These families have lived and ranched in the area for many years, and this bill benefits them both through the land transfers and through the fact that it preserves the ranchers' livelihoods by clarifying that grazing rights are retained through these transfers.

As you know, Mr. Chairman, water rights in the West are vital to our livelihood, and even the murmur of losing control of them is enough to start a stampede. That is why the language has been included in this bill to guarantee that the Bureau of Reclamation retains jurisdiction and access to water delivery facilities. The Incompadre Valley Water Association is doing a great job ensuring that the valley is irrigated. I want to make sure that they can continue to keep the farmers in business.

My 1990 bill establishing the Park did not intend to affect the Bureau's jurisdiction in any way, and neither does this boundary modification. I am aware that the Administration has submitted a few technical amendments, which I would be glad to consider if the bill moves to markup. For instance, the acreage should be modified to 2,530 acres, as a portion of the property was transferred since the bill's introduction. And we need to revise the date on the map that should go to April 2, 2003.

The Black Canyon of the Gunnison Gorge is a national treasure enjoyed by all. The Park's combination of geological wonders and diverse wildlife make it one of the most unique natural areas in the country. I am proud to represent the area and believe this legislation will greatly benefit those who live in the area and all of those who visit the Park.

Mr. Chairman, I would ask that a written copy of my statement be submitted to the record and any revisions made thereof, and again, I thank the Chairman and the Committee for the privilege of appearing in front of you.

[The prepared statement of Mr. McInnis follows:]

**Statement off The Honorable Scott McInnis, a Representative in Congress from the State of Colorado, on H.R. 1399**

Mr. Chairman, thank you for holding this hearing on my bill, H.R. 1399, the "Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Boundary Revision Act of 2003." I introduced a similar bill in the 107th Congress and I appreciate this important step forward with today's hearing.

In 1999, I introduced legislation that established this Park and National Conservation Area, so my love of this place and belief in its continued protection is obvious. As you know, Mr. Chairman, I am a strong believer in local consensus and the

preservation of western values. The Park and NCA were established on those ideals, and I am pleased that the bill I bring before you today continues on that path.

H.R. 1399 does four things. First, it authorizes the Secretary to acquire up to 2,725 acres through purchase or exchange with three willing landowners. Second, it ensures that grazing rights are transferred with these exchanges. Third, it guarantees that water facilities used to irrigate the farmland in Uncompahgre Valley remain available under the Bureau of Reclamation's jurisdiction for the local water users association to operate. Lastly, the bill incorporates BLM land into the NCA that was in the process of being acquired prior to the passage of the 1999 legislation.

This legislation was originally scheduled for a hearing last June, after Senator Campbell successfully saw it through the Senate. I requested the hearing be put off for a period of time while I worked to ensure the transactions involving the water rights involved would protect the water rights and the transactions were fair for all involved. After working with the landowners, the Park Service and The Conservation Fund, I am now comfortable with the commitment that the landowners have made and am eager to see this bill move forward.

This bill seeks to protect valuable natural resources by working cooperatively with three local ranchers who have been good stewards of their land for years. Unfortunately, these landowners have hit hard financial times and were considering selling off their parcels. Thankfully, they have put preserving the integrity of the Park over subdividing land and building condominiums. Instead, they approached the Park Service and came up with innovative alternatives to selling outright, which required this legislation. The local county commissioners, the local Chamber of Commerce, and the land trusts involved, support these proposals, and the Park will develop additional public/private partnerships to manage this beautiful area.

In short, the three landowners have entered into either equal value land swaps or agreed to conservation easements across their land. The Bramlett family has agreed to an equal exchange of parcels, which will give them easier access while enhancing the landscape of the Park. The Allison family will exchange both a fee simple parcel of land and a conservation easement, providing the family with more acreage to ranch, while allowing the Park to protect a vulnerable area. Lastly, the Sanburg family intends to donate a portion of their property to the Park for a conservation easement to preserve the resource values that they have protected for many decades.

Again, I want to strongly emphasize that all of these exchanges came about at the request of the landowners. These families have lived and ranched in the area for many years and this bill benefits them both through the land transfers and the fact that it preserves the ranchers' livelihoods by clarifying that grazing rights are retained through these transfers.

As you know, Mr. Chairman, water rights in the West are vital to our livelihood and even the murmur of losing control of them is enough to start a stampede. That is why language has been included in this bill to guarantee that the Bureau of Reclamation retains jurisdiction and access to water delivery facilities. The Uncompahgre Valley Water User's Association is doing a great job ensuring that the valley is irrigated; I want to make sure they can continue to keep the farmers in business. My 1999 bill establishing the Park did not intend to affect the Bureau's jurisdiction in any way, and neither does this boundary modification.

I am aware that the Administration has submitted a few technical amendments, which I will be glad to consider if the bill moves to markup. For instance, the acreage should be modified to "2,530 acres," as a portion of the property was transferred since the bill's introduction and the date on the map needs to be changed to "April 2, 2003."

The Black Canyon of the Gunnison Gorge is a national treasure to be enjoyed by all. The Park's combination of geological wonders and diverse wildlife make it one of the most unique natural areas in North America. I am proud to represent the area and believe that this legislation will greatly benefit those who live in the area and all who visit the Park.

I ask that a copy of my statement be printed in the record.  
Thank you.

---

Mr. RADANOVICH. Thank you, Scott. I appreciate your testimony.  
Also here to speak is the Hon. Adam Schiff. Adam, if you want to begin your testimony, I will be happy to hear information about your bill.

**STATEMENT OF HON. ADAM SCHIFF, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. SCHIFF. Thank you, Mr. Chairman.

Good afternoon, members of the Subcommittee. I appreciate the opportunity to testify before you today in support of H.R. 804, the Rim of the Valley Quarter Study Act. Earlier this year, the Senate unanimously passed S. 347, essentially identical legislation to H.R. 704, introduced by Senator Feinstein. I am very delighted also to have the support of the National Park Service with minor changes that they have recommended.

H.R. 704 would call for a study by the National Park Service and the U.S. Forest Service of the feasibility and suitability of expanding the Santa Monica Mountains National Recreation Area. The Rim of the Valley consists of parts of the Santa Monica Mountains, the Santa Susana Mountains, San Gabriel Mountains, Verdugo Mountains, San Raphael Hills and adjacent connector areas to the Los Padres and San Bernardino National Forests.

The Rim of the Valley is a beautiful recreation area and home to very rare environmental treasures, including one of the most endangered habitat areas in the world, the Mediterranean Chaparral ecosystem, found only here and in South Africa, believe it or not.

This beautiful, environmentally sensitive area is located in one of the most densely populated areas in the United States. The Greater Southern California metropolitan region has the nation's second-largest urban concentration. About one in every 10 Americans lives in this region. At the same time, the area has one of the lowest ratios of park and recreation lands per 1,000 population of any area in the country. So this rapidly growing urban region is very underserved in terms of parks, open space and recreation. Unless action is taken soon, the situation will only grow worse, as the region continues to grow.

Since Congress set aside the Santa Monica Mountains National Recreation Area in 1978, Federal, state and local authorities have worked in cooperation to manage what is the world's largest urban park. Now, nearly a quarter of a century later and in the face of tremendous projected growth and development, Congress, by passing this bill, again will have the opportunity to safeguard and supplement the existing state and local parks, open space and recreational opportunities in Southern California.

We have amended the bill in response to comments from the National Park Service. First, the bill now authorizes a joint study between the Department of the Interior and the Department of Agriculture, since the Rim of the Valley incorporates some lands that are now managed by the Park Service and others by the Forest Service. Together, these two services can decide the most appropriate way to protect the land for future generations.

And second, we eliminated from the bill explicit provisions for a 17-member advisory commission. This provision was felt by the Park Service to be unnecessary, as this type of resource study conducted by the Park Service automatically entails extensive public outreach to communities and local governments.

With these changes, we were pleased that the National Park Service testified in support of the identical bill in the Senate and supports the bill here with minor modifications. This legislation en-

joys strong bipartisan support from Republican and Democratic members of Congress, whose members include portions of the Rim of the Valley, including Representatives Howard Berman, David Dreier, Buck McKeon, Brad Sherman, Hilda Solis as well as George Miller but also enjoys the support of largely Republican and Democratic communities, including La Canada, and we have a Councilmember from the largely Republican area of La Canada with us today, Anthony Portantino.

I want to thank you for this opportunity to testify on the bill and ask for your support, and I would be glad to respond to any questions.

[The prepared statement of Mr. Schiff follows:]

**Statement of The Honorable Adam B. Schiff, a Representative in Congress  
from the State of California, on H.R. 704**

Good afternoon, Chairman Radanovich and members of the Subcommittee. I appreciate the opportunity to testify before you today in support of H.R. 704, the Rim of the Valley Corridor Study Act. Earlier this year, the Senate unanimously passed S. 347—essentially identical legislation to H.R. 704 introduced by Senator Diane Feinstein.

H.R. 704 would call for a study by the National Park Service and the U.S. Forest Service of the feasibility and suitability of expanding the Santa Monica Mountains National Recreation Area. The Rim of the Valley consists of parts of the Santa Monica Mountains, the Santa Susanna Mountains, the San Gabriel Mountains, the Verdugo Mountains, the San Rafael Hills, and adjacent connector areas to the Los Padres and San Bernardino National Forests. The Rim of the Valley is home to very rare environmental treasures, including one of the most endangered habitat areas in the world, the Mediterranean Chaparral ecosystem, found only here and in South Africa.

This environmentally sensitive area is located in one of the most densely populated areas in the United States. The greater Southern California metropolitan region has the nation's second-largest urban concentration; about one in every ten Americans lives in this region. At the same time, this area has one of the lowest ratios of park-and-recreation-lands per thousand-population of any area in the country. So this rapidly growing urban region is very underserved in terms of open space needs. Unless action is taken soon, this situation will only worsen as the region continues to be subjected to intense growth.

Since Congress set aside the Santa Monica Mountains National Recreation Areas in 1978, federal, state and local authorities have worked in remarkable cooperation to manage what is the world's largest urban park. Now, nearly a quarter-century later and in the face of tremendous projected population growth and development pressures, Congress, by passing this bill, again will have the opportunity to help safeguard and supplement the existing state and local parks, open space and recreational opportunities in Southern California.

We have amended this bill in response to comments from the National Park Service. First, the bill now authorizes a joint study between the Department of Interior and the Department of Agriculture, since the Rim of the Valley incorporates some lands that are now managed by the Park Service and others managed by the Forest Service. Together, the National Park Service and the U.S. Forest Service can decide on the most appropriate way to protect these lands for future generations. A second, we eliminated from the bill explicit provisions for a 17-member advisory commission. This provision was felt to be unnecessary, as this type of special resource study, conducted by the National Park Service, automatically entails extensive public outreach to communities and local governments.

With these changes we were pleased that the National Park Service testified in support of the identical bill in the Senate.

This legislation enjoys strong bipartisan support by Republican and Democratic Members of Congress whose district includes portions of the Rim of the Valley Corridor, including Representatives Howard Berman, David Dreier, Howard "Buck" McKeon, George Miller, Brad Sherman and Hilda Solis. I thank you for your attention, and ask for your support for the Rim of the Valley Corridor Study Act.

Mr. RADANOVICH. Thank you very much, Mr. Schiff, for your testimony. I appreciate that.

Are there any other opening statements by any other members on the dais? John? Mr. Udall? OK.

**STATEMENT OF HON. MARK UDALL, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF COLORADO**

Mr. MARK UDALL. If I might, Mr. Chairman, I just wanted to express my support for my colleague, Mr. McNinnis' important legislation. He has been, along with Senator Campbell, a father of the Black Canyon of the Gunnison National Park, and I know he has worked very hard to bring this bill back for a second time. I look forward to supporting it and working with him, and hopefully, we can convince the Senate to move with dispatch so that the adjustments to the boundary can be made, and that park can continue to thrive and be the great resource like Yosemite is in your district, Mr. Chairman.

Mr. RADANOVICH. There is no resource like Yosemite, Mark.

Mr. MARK UDALL. I do not know if we want to go there or not. With that, Mr. Chairman, I appreciate the time.

Mr. RADANOVICH. Thank you, Mr. Udall. I appreciate that.

To speak on another bill, we have our colleague Mr. Bishop, from Utah. I am trying to see the bill number here. It is 2909. Mr. Schiff, is it possible—I think there may be a couple of other questions or something—well, let me take an opportunity just to ask a couple of questions.

Are you aware of recreational opportunities that already exist on private property that is within the prescribed areas of the monument right now? I have been talking to some people that do provide recreation already, and I am wondering if you are aware of that, and does that have an impact on the expansion of this area?

Mr. SCHIFF. Mr. Chairman, I am not sure of the particulars. I would not be a bit surprised if there were private lands where there are recreational opportunities as well as the public lands. The Rim of the Valley incorporates, I think, into the study areas that are part privately held, part publicly held, probably in which there are recreation areas available on either.

The advantage, should the Department of Agriculture and the Park Service determine that some of those areas should be included within the Recreation Area would be the opportunity to bring additional management resources to the area; the additional opportunity to work in public-private partnerships, should there be people who wish to sell property for the Recreation Area. As you know, there is no power of eminent domain, so none of those issues are implicated. But in answer to your question, I would assume that there are some recreational opportunities as you describe already there. This would study the possibility of augmenting those by incorporating the Rim of the Valley.

Mr. RADANOVICH. Can you give me an idea of the percentage of private property that would be within the proposed area boundaries here?

Mr. SCHIFF. The Rim of the Valley incorporates—really, I guess it is probably easiest to conceptualize three areas. It would include the Santa Monica Mountains Recreation Area, which is already in

existence. It would include a chunk of the Angeles Forest; obviously, also public lands, and then, it would include areas of the Rim of the Valley that are in neither of those two categories.

If you look at the area outside of the current Recreation Area that would be studied by this bill, I believe the percentage is 58 percent public lands and 42 percent private lands, so that is the current composition of what would be studied. And obviously, the two departments working together could recommend that some, all or none of those areas are appropriately included in the Santa Monica Mountains Recreation Area, and to implement whatever recommendation they make, we would need to bring subsequent legislation before your Committee.

Mr. RADANOVICH. I appreciate, Mr. Schiff, your testimony.

Any other questions of Mr. Schiff? We will let him go, so he does not have to wait.

Adam, thanks.

Mr. SCHIFF. Thank you, Mr. Chairman, member.

Mr. RADANOVICH. All right; sorry, Mr. Bishop. Thank you for your patience, and you are here, of course, to describe your bill, and welcome. Have at it.

**STATEMENT OF HON. ROB BISHOP, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF UTAH**

Mr. BISHOP. Thank you, Mr. Chairman. I appreciate doing that. I am pleased to be able to present a bill that I think has bipartisan support, at least from the entire Utah delegation. It is similar to a bill that this body heard in July of 2001, but it is a significantly scaled-down version of that particular bill, because we have gone out to get input from the local government, environmental interests and the Native Americans who have an interest in this, and to those particular groups, I want to assure that as this bill goes toward markup, we will continue to work with those particular entities to make any kind of accommodations that are possible.

I would like if I could, though—give me the chart—to simply speak first about the Utah Test and Training Range, so the record understands what we are talking about. This Utah Test and Training Range, which we will show you in a moment is the nation's only complete land range training facility. It has both mountain, water, sand, desert facilities to provide live-fire target areas under real-time conditions. As former General Eberhardt of Air Force Combat Command said, we could not test or train our aircraft to operate standoff joint precision weapons without complete access to the Utah Test and Training Range.

In addition to the Test and Training Range, the bigger area that is around that area is the MOA, or the air space that is essential, to implement the Test and Training Range concept that happens to be there. That is the area that planes need, and as planes get faster, and we start shooting missiles from a longer range, it is going to be necessary in the future to expand that area of air space that is essential to maintain the training facilities of the Utah Test and Training Range.

In this particular bill, we are talking about wilderness areas that, it will be noted, are very limited. The only wilderness and wilderness study areas that we are talking about are those that are

specifically impacted by the Test and Training Range. We are establishing no new precedents that would go forward for any other particular areas, but there is precedent for making some kind of applications; for example, the California Desert Protection Act; the Goldwater Training Range Act, both of them found that you can have complementary systems of wilderness and training if you properly plan for them.

The cooperation on our range has had a good history, but it is also something that is sometimes very risky. The Mountain Home Range, for example; its efficiency was limited or totally eliminated by demands on limitations of flying times and altitude times that we do not want to see happening here. The Western Environmental Law Center filed a suit in the District Court in the year 2000 to ban all low-level flights of the Air Force over public lands. Congress, of course, reacted to that and stopped it, but it would be wiser to have a proactive position that could provide both short- and long-term solutions to these types of issues on this sensitive area.

We are attempting to maintain status quo activity so that we can retrieve personnel and aircraft that are downed in a wilderness study area; that we can maintain tracking systems that are there and preexisting before any wilderness study area was established. You will hear evidence from the Goshute Nation who will come here as the leaders. We also have testimony from some other members who represent a minority view of those. This bill is in no way trying to provide enmity toward this group.

When I was Speaker of the House in Utah, I was the first one that tried to bring the seven nations in Utah to the Legislature to establish dialog and had the Legislature in Utah travel to those particular reservations. We support other efforts the tribes are using to try to get economic activity in their particular area, but the bottom line is there will be 5,000 flights by the Air Force over areas in which they are presently living. There have been 24 aircraft and missile accidents so far, four within a mile of a proposed economic site which would be for nuclear spent fuel rods to be stored above ground.

The Atomic Energy and Licensing Board has already issued some concerns as to the safety of those areas. The NRC will eventually come up with a recommendation, but we will present testimony that those concerns have a validity to them. The bottom line is there is one particular economic activity that is situated in such a place that it would do harm to the defense capability of this nation on an area that cannot be replicated anywhere else.

Finally, the last thing I would like to say is the particular map you are looking at right now is talking about a proposed wilderness area that has a north, a central and a southern portion to it. It is a work in progress for those three parts. It is our intention to work from now until markup, to work with both the BLM, the Goshute Nation, environmentalists and local and state government to have a more finalized map that would protect private property rights, recreational hunting, Native American cultural rights, preserve BLM oversight and protect the land and the environment.

But our primary—primary—issue is still to do that which would protect the viability of the military mission at the Utah Test and



Training Range in a proactive way to preserve its function for the defense of this country forever. And Mr. Chairman, with that, I would, at some point—and I do not know when you would rather like to have that—ask unanimous consent to have seven other statements be part of the official record; if you would like for me to wait for some time, or if not, I would like to move that.

Mr. RADANOVICH. There being no objection, so ordered.

Mr. BISHOP. Thank you.

[NOTE: The statements submitted for the record by Mr. Bishop have been retained in the Committee's official files.]

[The prepared statement of Mr. Bishop follows:]

**Statement of The Honorable Rob Bishop, a Representative in Congress  
from the State of Utah, on H.R. 2909**

Mr. Chairman:

I appreciate this opportunity to testify regarding the H.R. 2909, the Utah Test Range Protection Act, and I thank the Chairman for allowing this important bill to be given a hearing.

The language contained in H.R. 2909 is the product of years of work and, I strongly believe, is necessary to address encroachments and potential encroachments which negatively impact the military's ability to test and train on the Utah Test and Training Range (UTTR). The bill takes a small step forward in a collaborative manner in working with all stakeholders in designating a total of approximately 106,000 acres of Bureau of Land Management (BLM) lands on and near the Cedar Mountains as formal wilderness. I am pleased that the Utah Congressional Delegation has united in a bipartisan manner to introduce and support this legislation.

At the outset, I recognize that the final boundaries and acreage of the proposed wilderness areas have not been agreed to by all parties to this legislation and, as the primary sponsor of the bill, I have agreed to try to work with them and the Committee, including the minority, to address those boundary issues prior to this bill moving to a markup. A map of the proposed Cedar Mountain Wilderness has been provided to all interested stakeholders as a starting point, including representatives of the environmental community, and is represented by what you see on the easel before you. This map represents the largest footprint of potential wilderness for the Cedar Mountains that is possible. However, as indicated, this map will be revised prior to markup to try and incorporate the legitimate concerns that surface, in large part, because of this hearing.

As members of this Committee know, when it comes to wilderness designations, there are strong emotions on all sides of the issue. Unfortunately in times past, and in prior Congresses, the issues surrounding wilderness designation on BLM lands in the State of Utah and elsewhere have been very contentious and efforts at breaking a stalemate in Congress to enact Utah wilderness legislation has too often bogged down.

This bill takes a small, but important, step forward towards establishing a framework whereby future wilderness legislation can be discussed and acted upon in a cooperative and collaborative fashion.

To set the stage for this bill, I need to remind members of the fact that similar legislation was introduced in the 107th Congress by my predecessor, Chairman Jim Hansen, in the form of H.R. 2488, which was the subject of a hearing by the Subcommittee on July 26, 2001. That legislation, which was passed by the House of Representatives, was far more comprehensive in scope and far-reaching in its effects, and would have created formal wilderness areas in every instance where there exists a Wilderness Study Area (WSAs) today underneath the military's air space.

The present bill, H.R. 2909 is more modest in scope. It concentrates on the Cedar Mountain wilderness study areas where there seems to be a great deal of unanimity among affected parties as to the boundaries, and leaves the debate as to the other WSAs in Utah's West Desert to a future time. Those other WSAs would remain unaffected by this bill. My office has sought opportunities, up-front, to involve representatives of the environmental community, in addition to local government leaders, tribal representatives, the military, recreational users, and private landowners, in the drafting of this language. And while it is not perfect, or as specific or detailed as I would personally prefer it to be in some areas, I believe that, as written, the

language is acceptable in addressing the encroachments issues and also designating important wilderness.

The bill can be divided into two parts. One part addresses the need for continued military emergency access, over flights and training activities affecting existing WSAs and wilderness areas in the West Desert of Utah underneath the "footprint" or Military Operating Area (MOA). The other part of the bill takes advantage of the opportunity to designate a portion of existing WSAs into BLM wilderness, taking a small step forward to resolving wilderness concerns in Utah's West Desert.

Why is this bill necessary? The UTTR is nothing short of an irreplaceable national defense asset. While the Air Force is here and can testify from the operational and readiness points of view on the qualities and uses of the UTTR, I believe it is important for members of the Committee to realize that the UTTR is truly unique. In the past, the Air Force has testified that the UTTR is an irreplaceable national asset and to its value, and I will ask that that testimony be entered into the record at the appropriate time. It is the largest overland test and training range in the lower 48 states. In fact, the footprint of the airspace within the UTTR is larger than many Eastern States combined. It contains the largest and most flexible unrestricted air space of any range. Of current interest, the topography of the UTTR is similar to that in Afghanistan and Iraq, and the varied terrain provides pilot training opportunities unavailable elsewhere. The UTTR is also the only range under U.S. control with the size to adequately test our terrain-following cruise missiles. The UTTR also contains important munitions testing areas. Live-fire target areas are at the heart of training our pilots under real-time conditions.

The UTTR is often the testing range of choice when it comes to proving and developing cutting-edge weapons such as the MOAB, or largest conventional bomb ever built by the United States, which was recently used in Afghanistan. Its predecessor, the "Daisy-Cutter," or BLU-82 conventional munition, was also tested on the UTTR.

With U.S. military weaponry relying on larger and larger distances and increasing the ability to shoot from larger standoff distances, ranges such as the UTTR will become even more valuable for ensuring pilot and munitions readiness and thereby strengthen our national defense. As our population grows and developmental encroachments take their tolls on military training areas across the nation, the large and remote spaces that the UTTR provide will only become increasingly more valuable.

At the same time, there are a number of wilderness study areas that underlie the existing MOA. Those areas are represented by the map before the Committee. Military use of the airspace over these areas predates the 1964 Wilderness Act and the Federal Lands Management and Policy Act (FLMPA), and it is true that so far, there have been few instances of conflict between wilderness, wilderness study areas and the military's continued over flights and testing activities in Utah's West Desert. However, there are beginning to be more and more instances of groups filing litigation based on the wilderness act, the National Environmental Policy Act (NEPA) or FLMPA to stop or curtail military uses of public lands or airspace that lies above public lands.

For example, the Air Force was forced to agree to significant altitude and time of year restrictions within the Mountain Home Range Military Operating Area under threat of litigation by environmental groups. Those restrictions now include no military overflights below 5,000 feet in the airspace over "Little Jack's Creek Wilderness Study Area" within a 12-mile diameter circle during the months of April, May and June, as well as other specified public lands areas attached to the Mountain Home range.

Another example includes litigation filed by the "Western Environmental Law Center," as plaintiffs, on behalf of other environmental groups, in federal district court against the U.S. Air Force in the year 2000 alleging that low-level flights and training did not comply with the National Environmental Policy Act (NEPA), and which attempted to severely restrict the ability of the military to continue to overfly public lands.

Such altitude and time-of-year restrictions being imposed on the UTTR would prove disastrous to this national defense testing asset.

This bill does not set a new precedent for wilderness and military use. It does not create a "lesser" category of wilderness. Congress has acted previously to enact language which protects wilderness values while also providing for continued military uses. For example, the California Desert Protection Act [P.L. 103-433] designated significant portions of BLM lands in Southern California as wilderness while still preserving the ability of the Army and other services to train at Ft. Irwin. In the FY 2000 Defense Authorization Act, Congress authorized military uses of the Cabeza Prieta Wilderness Area and Wildlife Refuge beneath the Goldwater Training Range in Arizona [P.L. 106-65].

This bill seeks to balance the interests and concerns of the necessity of military training and readiness, with those of preservation of public lands.

In addition, one of the most serious encroachments upon the UTTR is a proposal by the Goshute Tribe on their reservation lands located in Skull Valley. At the present time, the Goshute Tribe has entered into negotiations with a private energy consortium (Private Fuels Storage, or PFS) to transport high-level nuclear waste for "temporary" storage on their Reservation lands. The proposal is at present before the Nuclear Regulatory Commission (NRC) for licensing. Further proceedings before the NRC have been delayed due to concerns raised by the NRC's Safety Board which ruled that there was a significant enough of a risk of a military aircraft crashing into the above-ground storage as to warrant further closer review.

If licensed, the PFS nuclear waste proposal would represent a serious encroachment upon the use and utility of the UTTR range. The entry point for the Southern portion of the UTTR goes directly over Skull Valley and the Goshute Reservation. It doesn't take a rocket scientist to conclude that supersonic fighter planes loaded down with live bombs and above-ground storage of high-level nuclear waste located downwind less than 60 nautical miles from Utah's populated Wasatch Front containing nearly 2 million people do not mix. In 2001, over 5,000 military aircraft flew over the Skull Valley site as low as 300 feet. Over half of these planes carried live ordnance, including 2,000 pound laser guided bombs. In the last 20 years, there have been over two dozen military aircraft or missile crashes on or near the UTTR. Four of these have involved crashes within a few miles of the Skull Valley proposed site.

The Air Force has previously testified before the NRC that, if licensed, the facility would cause the Air Force to seriously curtail its use of the Southern portion of the UTTR, which would greatly diminish the capability and usefulness of this unique test asset.

This legislation addresses this encroachment issue by prohibiting the BLM from issuing a right-of-way permit to construct a necessary rail spur across BLM lands to the Goshute Reservation. While I recognize that this prohibition would limit the tribe's ability to provide rail access to its reservation, I remain optimistic that in working with tribal leaders prior to markup on this legislation, that we may identify proposals not involving high-level nuclear waste that would provide needed economic opportunities for the tribe, which may lead to a revision of this current prohibition.

In conclusion, I thank the Chairman for the opportunity to testify.

---

Mr. RADANOVICH. Thank you, Mr. Bishop. Appreciate it. Any other questions of the panel?

If not, we will move on to our next panel.

Mr. RADANOVICH. Thank you very much, gentlemen. Panel two, I would like to call up now, please. It consists of Mr. Jim Hughes, who is the deputy director of the BLM in Washington, D.C.; Mr. Jeffrey Loman, acting director of trust services, BIA, Bureau of Indian Affairs; Mr. Gerald Pease, Associate Director for Ranges and Airspace of the U.S. Air Force in Washington; and Mr. deTeel Patterson Tiller, acting director of cultural resources for the National Park Service.

If you would like to come forward, gentlemen. Gentlemen, welcome to the Subcommittee. As you know, we are going to go by the 5-minute rule here with the lights, and if you abide by that, please feel free to sum up on your comments, and of course, if you leave anything out, I am sure that this panel will bring it up in the form of questions afterwards.

So we will go ahead and start with you, Mr. Hughes, and work every 5 minutes all the way across. Everybody will be given a chance to speak. And then, we will open up the panel for questions. Welcome, Mr. Hughes; you may begin.

**STATEMENT OF JIM HUGHES, DEPUTY DIRECTOR OF LAND  
MANAGEMENT, BUREAU OF LAND MANAGEMENT,  
WASHINGTON, D.C.**

Mr. HUGHES. Thank you, Mr. Chairman. Thank you for the opportunity to testify today on behalf of the Department of the Interior on H.R. 2909, the Utah Test and Training Range Protection Act. The administration shares the goals of the sponsor of the legislation to support the continued operation of the Utah Test and Training Range and protection of public lands with special values.

However, the Department has concerns with the bill. I will briefly discuss the provisions directly relevant to the BLM and then will defer to my colleague from the BIA on issues regarding the Skull Valley Indian Reservation.

Section 5 of the bill proposes to designate the Cedar Mountain Wilderness Area. The bill does not provide reference to a specific map or the acreage of the proposed wilderness. Based on information provided to BLM's Salt Lake City Field Office, we understand that the legislation may contemplate an area substantially larger than the existing WSA.

While some of this area may have wilderness characteristics appropriate for wilderness designation, many portions lack wilderness characteristics. Areas to the north of the existing WSA, in particular, lack wilderness characters. Only Congress has the authority to designate wilderness or new wilderness study areas. The lands encompassed in this bill contain acreage that was either found to be unsuitable for wilderness during BLM's wilderness suitability review or was never identified as having wilderness characteristics in the first place.

For that reason, the Department does not agree with the broad designation. However, that being said, the Department recognizes that only Congress has the authority to designate wilderness, and Congress can choose to place wilderness restrictions on any Federal land without regard to the standards that were used in the administrative review process that the BLM used back in the 1980s.

The Department wants the Committee to know that there is extensive motorized recreational use within parts of the area proposed for wilderness in this bill which would be prohibited by the bill upon enactment.

Sections 2, 3 and 6 directly relate to the Utah Test and Training Range. We believe these sections need some modification. We are eager to work with the Committee and the Air Force in a cooperative fashion to meet military mission requirements. We are always concerned when exceptions to wilderness management are brought up in bills, and so, we look forward to working with people on that.

It is possible that through discussions with the Committee and the sponsors, we think many of these could be addressed very easily.

And the Department of the Interior would be happy to work with the Committee and the sponsors to protect both the important mission of the UTTR and the conservation values of BLM-managed lands in its vicinity. We do encourage the Congress to move forward on the designation of wilderness and release of WSAs, and as always, we would like to provide the sponsors and the Committee with information on the status of these lands and their current

uses. We would welcome the opportunity to propose changes to the bill, to increase manageability of the wilderness and ensure that we are not inadvertently affecting important current uses or expectations.

And finally, the final issue that we would like to talk about is Section 4(b), which prohibits the issuance of transportation right-of-ways under Section 501(a)(6) of the Federal Land Policy Management Act, FLPMA, as we know it, in certain areas of Utah until the year 2015. There are currently two pending applications for transportation right-of-ways in the approximately 250,000 acres covered by the prohibition. Those applications are from Private Fuel Storage, LLC, for a 30-mile railroad line on public land and from Broken Arrow Corporation for a two-mile access road, 100 feet on public land.

There are also 12 existing 501(a)(6) rights-of-way in the proposed prohibition area. The Department of the Interior is concerned about the implication of this provision on existing right-of-way applications, future applications as well as potential amendments and renewals of existing authorized rights-of-way.

With that, I will defer the remainder of our Department's testimony to Jeffrey Loman.

Mr. RADANOVICH. Thank you, Mr. Hughes.

Mr. Loman, welcome to the Subcommittee, and please begin your testimony.

**STATEMENT OF JEFFREY LOMAN, ACTING DIRECTOR, TRUST SERVICES, BUREAU OF INDIAN AFFAIRS, WASHINGTON, D.C.**

Mr. LOMAN. Thank you, Mr. Chairman.

Mr. RADANOVICH. You are welcome.

Mr. LOMAN. I appreciate the opportunity to testify here today.

H.R. 2909 would frustrate an ongoing administrative process that began in 1997, when the Department of the Interior issued a conditional 20-year lease for a spent nuclear fuel storage facility that would be operated by Private Fuel Storage on the Skull Valley Indian Reservation, which is home to the Skull Valley Band of Goshute Indians.

Section 4(b) of the proposed legislation would prohibit the transportation rights-of-way, including the 30-mile railroad that Private Fuel Storage has made an application for to transport spent fuel to the proposed storage facility. Continuation of the administrative process that has been ongoing and includes work by the Nuclear Regulatory Commission. That process that is underway is important to determine if the proposed storage facility is viable, and that process would come to a halt if H.R. 2909 is enacted.

Thank you very much for the opportunity to testify.

[The joint statement of Mr. Hughes and Mr. Loman follows:]

**Statement of Jim Hughes, Deputy Director, Bureau of Land Management, and Jeffery Loman, Acting Deputy Director, Trust Services, Bureau of Indian Affairs, U.S. Department of the Interior, on H.R. 2909**

Thank you for the opportunity to testify today on behalf of the Department of the Interior on H.R. 2909, the Utah Test and Training Range Protection Act. The Administration shares the goals of the sponsors of the legislation to support the continued operation of the Utah Test and Training Range (UTTR) and to protect public lands with special values. However, the Department has concerns with H.R. 2909 for two reasons. First, the bill is not specific as to the lands that will be designated

as wilderness, and, according to studies performed by the BLM, much of the area may not be suitable for wilderness designation. Second, the bill would frustrate an ongoing administrative review process that began in 1997 with the conditional approval of a 20-year license to receive, transfer, and store spent nuclear fuel on the Skull Valley Indian Reservation.

#### *Background*

The UTTR is located in northwestern Utah and eastern Nevada within the Great Salt Lake Desert. Operated by the United States Air Force, the UTTR provides air training and test services, large force training exercises and large footprint weapons testing. A unique facility, it has the largest overland block of protected airspace in the continental United States. The Cedar Mountains Wilderness Study Area (WSA) is located in Tooele County, Utah, and covers approximately 50,500 acres of BLM-managed lands. On June 26, 1992, President George H. W. Bush submitted his Administration's recommendations to Congress on wilderness suitability for BLM WSAs in Utah, including a recommendation that the entire Cedar Mountains WSA was not suitable for wilderness designation. The Skull Valley Reservation is located in Tooele County, Utah, approximately 45 miles southwest of Salt Lake City. In 1996, the Skull Valley Band of Goshute Indians (Tribe) entered into a business lease with Private Fuel Storage, L.L.C. (PFS), a consortium of major utility companies, to provide a temporary storage facility for spent nuclear fuel on the Tribe's reservation.

In May 1997, the Department approved the lease subject to certain conditions, including a complete National Environmental Policy Act (NEPA) review, and the Nuclear Regulatory Commission's (NRC's) issuance of a license. Shortly thereafter, PFS filed its license application. In January 2002, the NRC issued a final Environmental Impact Statement (EIS) on the proposed storage project. The Bureau of Indian Affairs (BIA), the Bureau of Land Management, and the Surface Transportation Board serve as cooperating agencies with the NRC on the project.

In April 2002, the NRC Atomic Safety and Licensing Board (ASLB) began a series of local and statewide hearings that concluded on July 3, 2002. The major outstanding point of contention (environmental justice) was dismissed on October 1, 2002.

The ASLB issued three Partial Initial Decisions on three issues. First, on March 10, 2003, the ASLB ruled that the probability of an aircraft crash into the proposed facility would be high enough that PFS must analyze the potential consequences of such a crash. On May 22, 2003, the ASLB determined that an earthquake would have no impact on the proposed facility. The NRC upheld this decision on August 15, 2003. On May 27, 2003, the ASLB ruled that PFS is financially qualified to construct, operate, and decommission the proposed facility.

#### *H.R. 2909*

Major provisions of this legislation include the designation of the Cedar Mountains Wilderness Area, protection of military operations in and around the UTTR, and the prohibition on the granting of certain transportation rights-of-way in Tooele County, Utah. Section 5 of the bill proposes to designate the Cedar Mountains Wilderness Area. The bill does not provide reference to a specific map or the acreage of the proposed wilderness. Based on information provided to BLM's Salt Lake City Field Office, we understand that the legislation may contemplate an area substantially larger than the existing WSA. While some of this area may have the wilderness characteristics appropriate for wilderness designation, in the opinion of the local BLM land managers, many portions lack wilderness characteristics. Areas to the north of the existing WSA, in particular, lack wilderness qualities.

The Administration has stated that only Congress has the authority to designate wilderness or new wilderness study areas. The Department of the Interior was delegated the authority to review and recommend wilderness in Section 603 of the Federal Land Policy and Management Act (FLPMA). That authority expired in 1993. During this review, the BLM identified over 20 million acres of lands with wilderness characteristics, but ultimately found many of those lands were not suitable for wilderness designation. As stated before, the BLM submitted its recommendations regarding suitability to President George H.W. Bush who, in turn, submitted them to Congress. These lands are now designated wilderness or have been released from WSA status by the Congress, or remain in wilderness study area status containing a combination of "suitable" and "unsuitable" acres. The lands encompassed in this bill contain acreage that was either found to be unsuitable for wilderness during that review, or was never identified as having wilderness characteristics in the first place.

In general, the Department supports the designation of wilderness areas in Utah, but we would like the Committee to consider the impacts of designating wilderness areas where there may be ongoing incompatible uses. During the original WSA inventory process, and now when updating a land use plan and considering wilderness characteristics, the BLM generally looks at size, naturalness, opportunities for solitude and primitive (non-motorized) recreation, and other special features. The Wilderness Act of 1964 specifically prohibits motorized equipment in wilderness areas.

The Department wants the Committee to know that there is motorized recreational use within parts of the areas proposed for wilderness in this bill. While Section 3 of the bill specifically authorizes certain military activities to continue notwithstanding any potential wilderness status, it does not do so for other uses. All other non-wilderness uses in the designated areas, including existing motorized recreational uses, would be prohibited by this bill upon enactment.

Sections 2, 3 and 6 directly relate to the UTTR. We believe these sections need modification. The BLM will work with the Air Force in a cooperative fashion to meet military mission requirements. However, proposed exceptions to wilderness and WSA management raise concerns. It is possible that through discussions with the Committee and the sponsors of the legislation many of these concerns could be addressed. In addition, many of the issues raised could be worked out cooperatively between the BLM and the Air Force through the use of Memoranda of Understanding (MOUs).

Planning for the public lands within the area surrounding the UTTR has been precluded by legislation for many years. We believe the goal of the legislation is to lift those prohibitions and to move forward on planning in a collaborative fashion in consultation with the Air Force. However, we believe that the language in the bill is confusing on this point and needs clarification. While Section 4(a) appears to provide direction to proceed with land use planning, Section 6(b) may contradict that by only lifting certain planning prohibitions on the proposed Cedar Mountains Wilderness Area but not on the rest of the BLM-managed lands in the area. Likewise, Section 6(a) is confusing and could be construed as negating other legislative language within the bill.

Section 4(b) of the legislation prohibits the issuance of transportation rights-of-way under Section 501(a)(6) of the Federal Land Policy and Management Act of 1976 (FLPMA) in certain areas of Utah until at least 2015. There are currently two pending applications for transportation rights-of-way in the approximately 250,000 acres covered by the prohibition. Those applications are from Private Fuel Storage LLC for a 30 mile railroad line on public land and from Broken Arrow Corporation for a 2 mile access road, 100 feet on public land. There are also 12 existing 501(a)(6) rights-of-way in the proposed prohibition area. The Department has concerns about the direct impact H.R. 2909 will have on the pending applications for rights-of-way, as well as potential amendments and renewals of existing authorized rights-of-way.

The chronology of administrative actions illustrates the nature and scope of the administrative processes that have been completed to date. Likewise, the administrative processes that are pending would be dispositive regarding the proposed temporary storage facility. If, for example, the NRC does not issue a license, the project will not operate. Continuation of the ongoing administrative processes resulting from the Tribe's business lease with PFS would provide the cooperating agencies with an opportunity to determine whether the proposed project is viable as an administrative matter only. Should Congress choose to enact H.R. 2909, the administrative process would come to a halt. However, if H.R. 2909 is not enacted, in the Spring of 2004, the ASLB is expected to render a decision and make a recommendation to the NRC regarding the dispositive administrative licensing issue. The NRC will then issue a Record of Decision and issue or deny the license. If the NRC grants a license, both the BLM and the Surface Transportation Board would issue Records of Decision regarding the pending railroad right-of-way application. The Department has worked closely with the Tribe to support them in their efforts to achieve some form of viable economic development on their reservation.

#### *Conclusion*

The Department of the Interior would be happy to work with the Committee and the sponsors of H.R. 2909 to protect both the important mission of the UTTR and the conservation values of BLM-managed lands in its vicinity. We encourage Congress to move forward on designation of wilderness and release of WSAs, and, as always, we would like to provide the sponsors and the Committee with information on the status of these lands and their current uses. We would welcome the opportunity to propose changes to the bill to address our concerns regarding the suitability of certain areas for wilderness designation, to increase the manageability of

the designated wilderness, and to ensure that we are not inadvertently affecting important current uses or public expectations.

Mr. RADANOVICH. Thank you very much, Mr. Loman.

Next is Mr. Gerald Pease, the associate director for ranges and airspace, here to speak on H.R. 2909. Mr. Pease, welcome to the Subcommittee and please begin your testimony.

**STATEMENT OF GERALD F. PEASE, JR., ASSOCIATE DIRECTOR  
FOR RANGES AND AIRSPACE, U.S. AIR FORCE, WASHINGTON,  
D.C.**

Mr. PEASE. Thank you very much, Mr. Chairman. I would like to thank you also for including us in the Air Force and I will say DOD in these discussions. As you know, the DOD and the Air Force have the majority of the lands that we use for our training and testing are public lands, most of which are BLM lands, and we are very interested in public lands in general, so thank you very much.

My responsibilities in the Air Force are to oversee Air Force ranges, special use air space and other air space designed for military use. This, as Congressman Bishop said, the Utah Test and Training Range is a very large range. It has the largest special use air space, piece of special use of air space measured from the surface or near the surface within the continental United States. It is about 100 by 200 miles.

The air space is situated over 2,600 square miles of DOD-managed land, of which 1,500 square miles or so are managed by the Air Force, the rest managed by the United States Army. It is the primary training range for the pilots who fly F-16s out of the 388th Fighter Wing and the 419th Fighter Wing at Hill Air Force Base. However, all types of airframes from the military services fly and test and train at the Utah Test and Training Range. About 16,000 sorties a year are historically flown there within the range air space. That includes test sorties, B-1 sorties, B-52; over 2,500 Navy and Marine Corps sorties and allied force sorties as well. We also do the majority of our cruise missile testing, ground weapons training, NASA support, industry testing as well as other support to universities and high school research projects.

In general, when we look at wilderness bills as they relate to our testing and training, we look at four issues: provisions for overflights, existing instrumentation sites, access control on the lands adjacent to the ranges themselves for safety and security issues, and then, the potential to do compatible ground operations, if you will, for military. As it relates to H.R. 2909 specifically, the bill lacks language authorizing the managers of the public lands adjacent to the range to enter into an MOU to ensure access of those lands are consistent with safety and security requirements. The second, the designation of certain lands as wilderness would allow ground operations. We would like to see the designation of certain lands that would allow military ground operations for testing and training that are considered compatible with those areas, and also, we would like the provision in the designation to allow us to, if necessary, increase our communication and instrumentation sites if necessary to sustain future operations.



We do all these things in other areas with the Bureau of Land Management. We believe that these issues can be worked at the local level in an MOU format.

I will end by saying that access to our ranges is of vital importance to the Air Force, DOD, other national agencies and civilian institutions, also, that use these ranges. Although our geopolitical environment remains uncertain, one aspect continues to be critical for the United States: that we must continue to test and train on military ranges while striving to minimize the impact of our operations on the surrounding communities and the environment. Future air power weapons systems will continue to need sufficient land and air space to train crews and test our weapons systems, and your kind consideration of these comments concerning H.R. 2909 are appreciated, and we welcome the opportunity to continue to work with our partners in the other Federal land management agencies and this Committee.

Thank you.

[The prepared statement of Mr. Pease follows:]

**Statement of Gerald F. Pease, Associate Director for Ranges and Airspace, Directorate of Operations and Training, Office of the Deputy Chief of Staff for Air and Space Operations Headquarters, U.S. Air Force**

My name is Gerald F. Pease, Jr. I am the Associate Director for Ranges and Airspace, Directorate of Operations and Training, Office of the Deputy Chief of Staff for Air and Space Operations, Headquarters United States Air Force, Washington, D.C. I am responsible for developing strategies and management policies to establish, modify and maintain Air Force ranges, special-use airspace, and other airspace designed for military use. Prior to my retirement from active duty, I served as a career Air Force fighter pilot.

*Comments on H.R. 2909*

In general, during the process to designate Wilderness or other land use designations, we look at the Air Force and DoD operational requirements relating to four areas:

- 1) Overflights, particularly as they relate to special use airspace and low-level routes;
- 2) Existing instrumentation sites and the potential requirements for future ground sites;
- 3) Access control of adjacent public lands for safety or security reasons; and
- 4) Compatibility with ground operations that include assurance of emergency response capabilities.

We are interested in ensuring that the Bill would preserve our ability to accomplish our test and training missions on the UTTR. In particular, we are concerned about access to adjacent public lands. Specific concerns include:

- 1) The bill lacks language authorizing managers of public lands adjacent to our Air Force ranges to enter into an MOU with DoD to ensure access to those lands is consistent with safety and security requirements;
- 2) The designation of certain lands as wilderness that would allow military ground operations for readiness testing and training activities that are considered compatible with those areas; and
- 3) Wilderness designations could also preclude DoD from increasing communication and instrumentation sites, if necessary, to sustain future operations.

The legislation does affirm that continued unrestricted access to special use airspace, military training routes, and to the range lands themselves, is a national security priority, and should be integrated effectively with other uses for land and associated air resources.

*The Utah Test & Training Range (UTTR)*

UTTR has the largest overland special-use airspace measured from the surface or near surface, within the continental United States (207 by 92 nautical miles). Of the total 12,574 square nautical miles comprising this area, 6,010 are restricted airspace, and 6,564 are Military Operating Areas (MOAs). The airspace is situated over

2,624 square miles of DoD-managed land, of which 1,490 square miles are managed by the Air Force.

UTTR is the primary training range for the pilots who fly the F-16 Fighting Falcon for the 388th Fighter Wing and the 419th Fighter Wing at Hill Air Force Base. However, all types of airframes from all the military services test and train at the UTTR. Approximately 15,800 sorties are flown annually within the range airspace. That total includes approximately 390 test sorties, 650 B-1B sorties, 380 B-52 sorties, 2,500 U.S. Navy/Marine Corps sorties, and 200 allied air forces sorties. Additionally, we conduct Cruise Missile testing, ground weapons testing, NASA support, industry testing, as well as support to universities and high school research projects.

#### *Conclusion*

Continued access to our ranges is of vital importance to the Air Force, DoD, other national agencies and civilian institutions and industry. The future geopolitical environment remains uncertain, but one aspect continues to be critical for the success of the United States—we must continue testing and training on military ranges while striving to minimize the impact of our operations on the surrounding communities and the environment. Future airpower weapons systems will continue to need sufficient land and airspace to train aircrews and test weapon systems. Your kind consideration of these Air Force comments concerning H.R. 2909 will be appreciated. We welcome the opportunity to continue working on these important issues with this Committee.

---

Mr. RADANOVICH. Thank you, Mr. Pease. We appreciate your testimony.

Mr. deTeel Patterson, here to speak on a lot of bills.

[Laughter.]

Mr. RADANOVICH. H.R. 280, 704, 1399, 1594, 1618, 1862, 1798, and please go that fast, because you have a lot of ground to cover.

Mr. TILLER. I will do my best, Mr. Chairman.

Mr. RADANOVICH. Actually, we will bend the 5-minute rule a little bit, since you have so many bills.

#### **STATEMENT OF DETEEL PATTERSON TILLER, ACTING ASSOCIATE DIRECTOR, CULTURAL RESOURCES, NATIONAL PARK SERVICE, WASHINGTON, D.C.**

Mr. TILLER. Actually, I think I can get it in under that.

Mr. RADANOVICH. Well, good, good, more power.

Mr. TILLER. Thank you for the opportunity to present the Department of the Interior's views on seven bills before you today. In the interest of brevity, I will summarize my testimony that I already submitted to the Subcommittee.

H.R. 704 directs the Secretaries of Agriculture and Interior to conduct a joint resources study on the feasibility of establishing the Rim of the Valley Corridor in Los Angeles as a unit of the Santa Monica Mountains National Recreation Area. The Department supports the bill with a few minor modifications detailed in my submitted testimony. Santa Monica Mountains has become a national model of collaboration among local, state and Federal land managers and private property owners, all working as joint stewards of exceptional natural scenic, cultural and recreational resources. We look forward to working with the Department of Agriculture on this important undertaking.

The Department also supports H.R. 1399, which revises the boundary of Black Canyon of the Gunnison National Park and Gunnison National Conservation Area in the State of Colorado. We support this, as the revision confers no significant increases of budget or staffing on the Service. The proposal completes the origi-

nal land intentions of the Park's authors, and the proposed increases are supported by willing sellers as well as key local elected officials, business organizations and local and national land trusts. In addition, H.R. 1399 clarifies important grazing and water rights matters.

Mr. Chairman, I would like to address the balance of the five bills as a whole in my remaining comments. H.R. 1594 directs the Secretary of the Interior to conduct a study on the feasibility of creating the St. Croix National Heritage Area in St. Croix, U.S. Virgin Islands, and the remaining four bills, H.R.s 1862, 1798, 1618 and 280 establish respectively the Oil Region National Heritage Area in Pennsylvania, the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts; the Arabia Mountain National Heritage Area in Georgia; and last, the National Aviation Heritage Area in Ohio.

The Department of the Interior supports the idea of national heritage areas and recognizes the success of the 23 already-designated Federal national heritage areas. We applaud this important, bottom-up, citizen-based movement to protect and preserve critical natural and historic places across this great nation, places that make each of our communities unique. Heritage areas can serve as critical local economic generators, all the while being cost-effective ways to preserve these places for future generations using creative partnerships and without, importantly, the necessity of costly Federal land acquisition.

However, the Department recommends that the Committee defer action on these five bills and on any further individual heritage area designations or studies until such time as a general heritage area program bill, establishing a national program, is passed. We believe that it is time to step back to evaluate the existing heritage areas and to develop legislative guidance and standards that can shape any further heritage area designations before we go any further.

An umbrella national heritage area bill will serve as a gatekeeper and national benchmark, making clear what qualities any proposed area must possess; standards under which a new designation will occur; and performance benchmarks for an area to measure its continued success, ultimately ensuring that public dollars are well-expended.

We have almost 20 years of experience now in administering this exciting concept and 23 existing heritage areas to evaluate and consult. We have experience, and we have the models. We have offered six core tests or standards of a national heritage area program in my submitted testimony, tests that any prospective heritage area must meet in order to join the ranks of those already designated. The National Park Service and the Department of the Interior do not wish to unnecessarily slow down this important process, and we stand ready to work with the Subcommittee to develop such an umbrella program bill.

Mr. Chairman, this concludes my statement. I will be pleased to answer any questions you or other Committee member may have. Thank you, sir.

[The prepared statements of Mr. Tiller follow:]

**Statement of deTeel Patterson Tiller, Acting Associate Director for Cultural Resources, National Park Service, U.S. Department of the Interior, on H.R. 280**

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on H.R. 280, a bill to authorize the Secretary of the Interior to establish the National Aviation Heritage Area and update the Dayton Aviation Heritage Preservation Act of 1992 special resource study.

The Department supports the national heritage area program but recommends that the Subcommittee defer action on any individual national heritage area designation or study bill until generic national heritage area legislation is enacted. The Department supports updating the Dayton Aviation Heritage Preservation Act of 1992 special resource study as outlined in Title II.

Ideally, national heritage areas provide a cost-effective way to preserve nationally important natural, cultural, historic and recreation resources through the creation of a working partnership between federal, state and local entities. In addition, national heritage areas should be locally driven, locally supported, should not involve federal land acquisition or zoning, and should protect private property rights. At its best, this program embodies Secretary of the Interior Gale Norton's "Four C's"—Communication, Consultation and Cooperation, all in the service of Conservation.

Some national heritage areas, however, have not met this ideal. For example, some national heritage areas have been designated without a clear indication of the ability of the management entity to assume responsibility for management of the area. The management entity subsequently has operated the area without a clear financial plan for achieving self-sufficiency without federal support. Consequently, it is time to step back, evaluate existing areas, and develop legislative guidelines that will shape future national heritage area designations.

The Department believes that a generic national heritage area bill should serve as a gatekeeper—making clear what qualities the area must possess and parameters under which designation will occur. We have almost twenty years of experience in administering national heritage areas and twenty-three existing national heritage areas to evaluate. In the absence of formal legislation to guide the national heritage area program, National Park Service (NPS) also has developed specific critical steps, identified later in this testimony, that should occur prior to designation and interim criteria that should be used for national heritage area suitability and feasibility studies. These steps and criteria have been field-tested, have proven to screen out many unqualified areas prior to recommending designation, and should serve as a possible starting point for any discussions on generic national heritage area legislation.

Based on our experience with the program, the Department would like to offer several considerations that we believe are key components of a successful national heritage area program.

1. **Studying the Area Prior to Designation.** In addition to the broad parameters that can be achieved by legislation, it is critical to have a process that evaluates the specific qualities of the area. Requiring that a suitability and feasibility study or some equivalent be conducted with a positive finding prior to recommending a designation should be an essential component of any generic heritage legislation that moves forward. Many of the issues discussed below could be evaluated during a national heritage area study.
2. **Nationally Important Resources.** In reality, most places in America have a special meaning to a particular group or are the site of some historic event. To be designated as a national heritage area, the area must contain nationally important natural, cultural, historic or recreational resources. Not all resources should be considered nationally important and, in some cases, designation as a state or local heritage area may be more appropriate.
3. **Local Support and Initiative.** Local communities must not only support the designation in concept, but must be willing and interested in taking an active role in preservation efforts. They are responsible for developing and implementing the management plan for the area and should work towards a goal of achieving self-sufficiency. Given the important role local communities play in the success of national heritage areas, we also have concerns about the concept of establishing national heritage areas in places that contain large tracts of federal lands. We believe inclusion of large tracts of federal lands has the potential to create confusion and unneeded conflict between management regimes. Therefore, before studying any potential area that includes large tracts of federal lands, we recommend that consultation and concurrence of the land management agency should occur first.

4. **Private Property Rights.** Private property owners should be provided reasonable protections. Such protections include prohibiting the federal government from acquiring land for the national heritage area or from imposing zoning or land use controls in national heritage areas. Private property owners also should be provided with specific protection from the management entity regulating land use zoning, hunting or fishing or using federal funds to acquire land. Zoning decisions should remain in control of local communities. The support of private property owners should be considered in the context of determining if sufficient local support exists for designation.
5. **Partnerships and the Leveraging of Preservation Resources.** Also integral to the success of national heritage areas is the development of a working partnership among the National Park Service, state entities and the local communities. The National Park Service should provide the communities with technical and financial assistance, but not acquire any land or impose any zoning requirements. The local communities should participate by developing and implementing the management plan that will serve as a guide for interpreting the national heritage area.
6. **Achieving Self-Sufficiency/Limiting Limited Federal Resources.** To date, self-sufficiency has yet to be achieved with any national heritage area, and the first four national heritage areas established have sought and received Congressional extensions of their funding. With federal dollars leveraging an average of 8.7 times that amount in non-NPS partnership funds, national heritage areas can be a cost-efficient way to preserve important resources. However, because of our commitment to support the President's effort to address the deferred maintenance backlog, we must significantly limit the long-term commitment of federal funds to national heritage areas by requiring they become self-sufficient. To achieve this goal, we must study, prior to designation, whether an area has the resources and public support to achieve self-sufficiency over the long-term. Today, some of the national heritage areas have a cap of federal funding at \$50,000, while others receive up to \$1 million per year. Reasonable limitations on financial assistance from the Department should be developed and extensions to this funding should be avoided.

We look forward to working with the Subcommittee on translating these ideals into a generic national heritage area bill.

Title I of H.R. 280 would establish the National Aviation Heritage Area. Few technological advances have transformed the American economy, society, culture and national character as the development of powered flight. The core area is defined by Montgomery, Greene, Warren, Miami, Clark and Champaign Counties in Ohio, as well as the Neil Armstrong Air & Space Museum in Wapakoneta, Ohio, and the Wilbur Wright Birthplace and Museum in Millville, Indiana. It would include the homes of pioneering aviators from the Wright brothers to the first man who walked on the moon; buildings associated with the aerospace industry from the first commercial factory to space-related manufacturing facilities; Wright-Patterson Air Force Base, which spans the history of military aviation; and sites associated with important events in the history of flight. The area demonstrates a strong tradition and offers inspiration through the stories of national heroes like Eddie Rickenbacker, John Glenn, Neil Armstrong and others.

The bill designates the Aviation Heritage Foundation, Inc., a non-profit corporation chartered in the State of Ohio, as the management entity for the heritage area and outlines the duties of the management entity. It also authorizes the development of a management plan and authorizes the use of Federal funds to develop and implement that plan. If the plan is not submitted within three years of enactment of this title, the heritage area becomes ineligible for Federal funding until a plan is submitted to the Secretary. Additionally, the Secretary may, at the request of the management entity, provide technical assistance and enter into cooperative agreements with other public and private entities to carry out this purpose. The use of Federal funds may not be used to acquire real property or interests in real property.

This legislation would allow all Federal partners, including the NPS, the United States Air Force (USAF), the National Aeronautics and Space Administration (NASA), and state and local groups to participate in the management of the major facilities and resources within the heritage area.

There is a long history of coordination among the aviation-related historical sites in the potential national heritage area. Aviation Trail, Inc. was formed in 1981 to promote the aviation heritage sites within a multi-county area in southwest Ohio. Coordination and collaboration between those sites was further enhanced with the establishment of the Dayton Aviation Heritage Commission by Congress in 1992, which had some authority similar to the management entity of the proposed national heritage area. The success shown in the coordination of the sites is a positive

indication that the national heritage area would be successful in accomplishing its objectives.

This legislation is consistent with the recommendations of the Dayton Aviation Heritage Commission, which was charged under Section 202(b)(4) of Public Law 102-419 "to propose a management strategy for a permanent organizational structure to enhance and coordinate such resources, and aviation-related properties, and institutions." This year, the 100th anniversary of the invention of the first powered flight, there has been considerable public interest in the Wright brothers and the history of aviation. Successful events in Ohio and around the country have demonstrated the strong national support of the kinds of historical resources affected by this legislation.

Recently, the Dayton Aviation Heritage Commission completed the Concept Study for the Development of a National Aviation Heritage Area (2002). This study, which included public hearings in Cleveland, Columbus and Dayton, Ohio, identified more than 300 sites, resources and stories from Ohio that have had a significant impact on the development of aviation in the United States.

The establishment of the National Aviation Heritage Area would help the citizens of Ohio to understand better their rich and complex heritage, as well as share it with the many visitors to southwestern Ohio. It would also help to ensure the American public is informed, educated and supportive of this important component of our heritage, which also remains a significant sector of our nation's economy.

There are several steps the Department believes should be taken prior to Congress designating a national heritage area to help ensure that the heritage area is successful. They are:

1. Public involvement in the suitability/feasibility study;
2. Completion of a suitability/feasibility study;
3. Demonstration of widespread public support among heritage area residents for the proposed designation; and
4. Commitment to the proposal from the appropriate players which may include governments, industry, and private, non-profit organizations, in addition to the local citizenry.

We believe the studies that have been completed meet the intent of these criteria. They are based on many years of work conducted by various governmental and community organizations. These studies and plans define a broad base of significant and related aviation resources within southwestern Ohio, as well as the importance of the Federal, state, local and private sectors partnering for the protection and preservation of these resources. However, at this time, we would like to focus our efforts on developing generic national heritage area legislation as mentioned earlier in this testimony.

Title II of H.R. 280 would authorize the NPS to update the special resource study that was done several years ago and provide alternatives for including the Wright Company Factory property in the Dayton Aviation Heritage National Historical Park. The cost would be approximately \$200,000 or less since these buildings were previously studied but not recommended when the special resource study was done in 1992. A recent change in the ownership of the Wright Company Factory property from General Motors to Delphi Corporation has provided an opportunity to reexamine the original buildings used by the Wright brothers to manufacture airplanes. The Delphi Corporation has not made commitments for the future of the plant, which includes the Wright Company buildings, but has indicated a willingness to participate in an exploration of alternatives regarding the preservation and interpretation of these buildings.

This site is integrally connected with the other sites in the Dayton area. At the time these buildings were used to manufacture airplanes, the Wrights lived only a few miles away at a site near the current Dayton Aviation Heritage National Historical Park. The planes built in the factory were tested at the Huffman Prairie Flying Field, now within the park unit. Congress recognized the importance of these buildings in 1992 when it passed the Dayton Aviation Heritage Preservation Act, and authorized a study to determine the feasibility and suitability of including them in the Dayton Aviation Heritage National Historical Park. That study concluded that the buildings are "outstanding examples of a particular type of resource, and, potentially, they offer exceptional value in illustrating and interpreting important cultural themes of our nation's heritage." However, we did not recommend inclusion in the park at that time because they were inaccessible to the public.

The Department supports Title II and recommends that the Subcommittee amend H.R. 280 to move only this part of the bill forward at this time. However, should the Committee move the bill as introduced forward, the Department recommends one amendment to H.R. 280, which is attached to this testimony. This amendment would authorize operational assistance to the public and private organizations with-

in the Heritage Area. This amendment is similar to language found in other Heritage Area laws and will facilitate the public/private partnerships that exist between the Dayton Aviation Heritage NHP and the designated Heritage Area.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to answer any questions you or other members of the Subcommittee may have.

*Recommended amendment to H.R. 280:*

On page 15, line 22 redesignate subsection (b) as subsection (c) and insert the following new subsection:

"(b) OTHER ASSISTANCE.—The Secretary may provide to the public and private organizations within the Heritage Area, including the management entity for the Heritage Area, operational assistance as appropriate to support the implementation of the Management Plan, subject to the availability of appropriations."

---

**Statement of deTeel Patterson Tiller, Acting Associate Director for Cultural Resources, National Park Service, U.S. Department of the Interior, on H.R. 704**

Mr. Chairman, thank you for the opportunity to present the Department's views on H.R. 704, a bill to direct the Secretaries of Interior and Agriculture to conduct a joint special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor, in the Los Angeles region, as a unit of Santa Monica Mountains National Recreation Area. Similar legislation, S. 347, passed the Senate on April 7, 2003.

The Department supports H.R. 704 with the minor modifications explained in this testimony. We believe that this study would provide an opportunity to explore partnerships with a wide range of state, local, private and other federal entities for the purpose of protecting and interpreting important natural and cultural resources in the area the study would encompass.

The National Park Service is in various stages of progress on 40 studies previously authorized by Congress, 31 of which are being funded through the special resource study budget. We completed five studies in FY 2003, and we expect to complete about 18 studies in FY 2004. Our highest priority is to complete these pending studies, though we expect to start newly authorized studies as soon as funds are made available.

H.R. 704 directs the Secretaries of the Interior and Agriculture to conduct a joint special resource study of the Rim of the Valley Corridor in Southern California. H.R. 704 further requires that the study evaluate the suitability and feasibility of establishing the area as a unit of the Santa Monica Mountains National Recreation Area. The Secretaries are directed to use the criteria for study of areas for inclusion in the National Park System and to consult with appropriate State, county and local governments. The study is estimated to cost approximately \$500,000.

The National Park Service generally conducts special resource studies to evaluate the suitability and feasibility of an area to become a new unit of the National Park System. We understand that the intent of this bill is not to establish a new park, but rather to study the Rim of the Valley Corridor as a potential addition for Santa Monica Mountains National Recreation Area. As such, we suggest that the term "resource study" be used in the bill rather than "special resource study." We also recommend including language that makes it clear that the study is meant to evaluate a range of alternatives for protecting resources, as does S. 347 as passed by the Senate.

The study would assess habitat quality, access to urban open space, low-impact recreation and educational uses, wildlife and habitat restoration and protection and watershed improvements along the Rim of the Valley Corridor surrounding the San Fernando and La Crescenta Valleys. This corridor consists of portions of the Santa Monica Mountains, Santa Susanna Mountains, San Gabriel Mountains, Verdugo Mountains, San Rafael Hills and the connector to Los Padres, Angeles, and San Bernardino National Forests, which provide notable recreation opportunities close to the Los Angeles basin. We commend the U.S. Forest Service for the excellent job they have done in managing their lands over the years, and look to their lead for the lands under their administration.

In addition to natural and recreational opportunities, the area also includes properties found on the National Register of Historic Places. Old stagecoach stops and images of the Wild West still exist. Amtrak's Coast Starlight line travels past many of these rich cultural and natural motifs. The area supports a diverse system of

plants and animals, including 26 distinct plant communities and more than 400 vertebrate species.

As the largest urban park area in the National Park System, the Santa Monica Mountains National Recreation Area includes 153,750 acres within its boundaries and provides recreational opportunities for approximately 530,000 visitors annually. During the 25 years since the national recreation area was authorized by Congress, this unit has become a model of collaboration of many local, state and federal public land managers, as well as many private property owners—all working together as stewards of the scenic, natural, cultural and recreational resources.

Recognizing the limitation of federal resources for acquiring and managing additional lands, the study would have to examine a number of alternatives for protecting significant areas of open space in the Rim of the Valley Corridor, including those that involve minimal cost to the federal government. With the study area encompassing 491,518 acres, the study would emphasize public-private partnerships. Given the large size and the diversity of stakeholders in the area, the study undertaken by the National Park Service would involve extensive outreach with members of the public, private landowners, and local governments. It would likely entail extended comment periods, and extensive analysis.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions you or other members of the Subcommittee may have.

---

**Statement of deTeel Patterson Tiller, Acting Associate Director for Cultural Resources, National Park Service, U.S. Department of the Interior, on H.R. 1399**

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on H.R. 1399, a bill to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes.

The Department of the Interior supports H.R. 1399 with minor amendments to the legislation. The bill authorizes additions to both Black Canyon of the Gunnison National Park ("Park"), through three separate easement or exchange transactions, and Gunnison Gorge National Conservation Area ("NCA"). The revision of the national park boundary would not contribute to the National Park Service ("NPS") maintenance backlog because the management and operation of the land added to the boundary would not result in any additional facilities, increased operating costs, or additional staffing. Costs involved with the land transactions are expected to be minimal.

One transaction would involve the purchase of a conservation easement on 26.5 acres, estimated to cost \$100,000; however, the owner has pledged to donate the conservation easement, conditioned upon the Federal government being able to receive the donation by December 31, 2003. A second transaction would include an equal value exchange. The third involves the transfer of 480 acres of isolated Bureau of Land Management (BLM) land to the NPS and then the exchange of this parcel for a conservation easement on approximately 2,000 acres. The landowner has stated he is willing to donate any difference in value.

H.R. 1399 amends the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (Public Law 106-76). The boundary of the park would be revised to include the addition of not more than 2,530 acres and the National Conservation Area (NCA) would be expanded by approximately 7,100 acres. These additions are reflected on a new map, dated April 2, 2003, which supplements the boundary map referenced in P.L. 106-76.

The bill authorizes the transfer of 480 acres of BLM land to the jurisdiction of NPS. The Secretary is authorized to acquire lands or interests in lands in accordance with P.L. 106-76 (by donation, transfer, purchase with donated or appropriated funds, or exchange) and lands cannot be acquired without the consent of the owner.

H.R. 1399 also amends P.L. 106-76 to clarify grazing privileges within the park. If land authorized for grazing within the park is exchanged for private land, then any grazing privileges would transfer to the private land that is acquired. Also, the bill clarifies the length of time that grazing may be conducted on park lands by partnerships.

*Black Canyon of the Gunnison National Park*

The boundary of the park will be expanded in three transactions. The first, locally referred to as Sanburg II, is located just south of Red Rock Canyon, one of the most scenic hiking opportunities into the Black Canyon of the Gunnison. The landowner



agrees with the NPS that maintaining the rural character adjacent to the Red Rock Canyon trailhead is an important part of the wilderness experience. The landowner has previously sold conservation easements in this area (authorized by P.L. 106-76 and a minor boundary revision) to The Conservation Fund, who subsequently sold to NPS. Once acquisition of a conservation easement on this 26.5 acre parcel is conveyed, the rural character of the Red Rock Canyon gateway will be insured.

The second, the proposed Bramlett transaction, will authorize the exchange of a 200-acre parcel of the Bramlett Ranch located on Grizzly Ridge, which overlooks the North Rim Road and North and South Rim overlooks. Although the landowner has proposed building cabins on the ridge top, he is willing to exchange this 200-acre parcel for land of equal value within the park and adjacent to his ranch headquarters. The equal value exchange will give the landowner land with easier access, and will add the ridgeline parcel to the park, thus protecting the natural landscape in that portion of the park.

The third boundary adjustment, the Allison exchange, is located along the East Portal Road, on the park's south rim. The landowner will exchange a combination of fee simple ownership and a conservation easement on up to 2,000 acres in return for fee simple ownership of up to 480 acres of the BLM parcel that will be transferred to NPS. The landowner has indicated that he will protect this parcel with a conservation easement should he acquire it. He has also indicated that he will donate any value above and beyond the value represented in the exchange.

The Department believes these acquisitions are important for several reasons. Combined with the land authorized by P.L. 106-76, the present and future land requirements for the park will be met. The present landowners are all willing sellers and, in addition to them, this effort enjoys the support of the Montrose County Commissioners, the Montrose Chamber of Commerce, and local and national land trusts involved in the project.

H.R. 1399 will also amend P.L. 106-76 regarding grazing within the park. P.L. 106-76 allowed for the continuation of grazing on the former BLM lands transferred to the NPS. Permits held by individuals can be renewed through the lifetime of the individual permittees. However, P.L. 106-76 requires that partnerships and corporations be treated alike regarding the termination of grazing permits. Partnerships and corporations now lose their permits upon the termination of the last remaining individual permit.

H.R. 1399 will amend P.L. 106-76 to treat partnerships similarly to individual permit holders, allowing permits to be renewed through the lifetime of the partners as of October 21, 1999. Since the two partnerships affected are essentially family run ranching operations, the Department feels that they should be treated consistently with individual permit holders.

H.R. 1399 will also allow grazing on land acquired in an exchange if the land being given up in the exchange currently has authorized grazing. This appears to be consistent with the intent of Congress when it authorized grazing in Public Law 106-76.

#### *Gunnison Gorge National Conservation Area*

H.R. 1399 also provides for the expansion of the Gunnison Gorge NCA managed by the BLM. A 5,759-acre parcel of land on the north side of the existing NCA was acquired in January 2000 from a willing seller through a land exchange. This acquisition was not completed in time to include the lands within the original NCA boundary. This parcel includes approximately five miles of the Gunnison River and provides important resource values and recreational opportunities. In addition, 1,349 acres of preexisting BLM-managed public lands adjacent to the acquisition would also be added to the NCA. The addition of these BLM lands will create a more manageable NCA boundary and provide appropriate protection and management emphasis for this area's resources.

The legislation also makes some minor boundary adjustments to the NCA. In the process of completing surveys of the lands designated as the NCA by P.L. 106-76, the BLM discovered a few inadvertent trespass situations on the NCA land. In order to resolve these issues with the local landowners in a fair and equitable manner, slight boundary modifications need to be made so that exchanges can be effected. Without the benefit of this legislation, the BLM would be forced to take extreme punitive measures which are not in the best interest of the federal government or local landowners who previously were unaware of the encroachment issues.

#### *Water Delivery Facilities*

With the passage of Public Law 106-76 the Uncompahgre Valley Water Users Association expressed concern that access to water and related facilities might be limited. H.R. 1399 clarifies that the Bureau of Reclamation will retain jurisdiction

over, and access to, all land, facilities and roads in the East Portal and Crystal Dam areas for the maintenance, repair, construction, replacement and operation of any facilities relating to the delivery of water and power.

We believe that the bill, as introduced, has a couple of confusing and unneeded sections. The Senate held a hearing on an identical bill, S. 677, on June 10, 2003, and we recommended amendments during our testimony at that hearing to clarify the language of the Senate bill. Our amendments were approved by the Committee and passed by the Senate on July 17, 2003. Since S. 677 is also pending before the Committee, we recommend that this bill be considered and approved by the Committee in lieu of H.R. 1399 to facilitate enactment of this legislation as soon as possible.

That concludes my testimony. I would be glad to answer any questions that you or the members of the Subcommittee may have.

---

**Statement of deTeel Patterson Tiller, Acting Associate Director for Cultural Resources, National Park Service, U.S. Department of the Interior, on H.R. 1594**

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on H.R. 1594, a bill to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the St. Croix National Heritage Area in St. Croix, United States Virgin Islands.

The Department supports the national heritage area program but recommends that the Subcommittee defer action on any individual national heritage area designation or study bill until generic national heritage area legislation is enacted.

Ideally, national heritage areas provide a cost-effective way to preserve nationally important natural, cultural, historic and recreation resources through the creation of a working partnership between federal, state and local entities. In addition, national heritage areas should be locally driven, locally supported, should not involve federal land acquisition or zoning, and should protect private property rights. At its best, this program embodies Secretary of the Interior Gale Norton's "Four C's"—Communication, Consultation and Cooperation, all in the service of Conservation.

Some national heritage areas, however, have not met this ideal. For example, some national heritage areas have been designated without a clear indication of the ability of the management entity to assume responsibility for management of the area. The management entity subsequently has operated the area without a clear financial plan for achieving self-sufficiency without federal support. Consequently, it is time to step back, evaluate existing areas, and develop legislative guidelines that will shape future national heritage area designations.

The Department believes that a generic national heritage area bill should serve as a gatekeeper—making clear what qualities the area must possess and parameters under which designation will occur. We have almost twenty years of experience in administering national heritage areas and twenty-three existing national heritage areas to evaluate. In the absence of formal legislation to guide the national heritage area program, National Park Service (NPS) also has developed specific critical steps that should occur prior to designation and interim criteria that should be used for national heritage area suitability and feasibility studies. These steps and criteria have been field-tested, have proven to screen out many unqualified areas prior to recommending designation, and should serve as a possible starting point for any discussions on generic national heritage area legislation.

Based on our experience with the program, the Department would like to offer several considerations that we believe are key components of a successful national heritage area program.

1. Studying the Area Prior to Designation. In addition to the broad parameters that can be achieved by legislation, it is critical to have a process that evaluates the specific qualities of the area. Requiring that a suitability and feasibility study or some equivalent be conducted with a positive finding prior to recommending a designation should be an essential component of any generic heritage legislation that moves forward. Many of the issues discussed below could be evaluated during a national heritage area study.
2. Nationally Important Resources. In reality, most places in America have a special meaning to a particular group or are the site of some historic event. To be designated as a national heritage area, the area must contain nationally important natural, cultural, historic or recreational resources. Not all resources should be considered nationally important and, in some cases, designation as a state or local heritage area may be more appropriate.

3. **Local Support and Initiative.** Local communities must not only support the designation in concept, but must be willing and interested in taking an active role in preservation efforts. They are responsible for developing and implementing the management plan for the area and should work towards a goal of achieving self-sufficiency. Given the important role local communities play in the success of national heritage areas, we also have concerns about the concept of establishing national heritage areas in places that contain large tracts of federal lands. We believe inclusion of large tracts of federal lands has the potential to create confusion and unneeded conflict between management regimes. Therefore, before studying any potential area that includes large tracts of federal lands, we recommend that consultation and concurrence of the land management agency should occur first.
4. **Private Property Rights.** Private property owners should be provided reasonable protections. Such protections include prohibiting the federal government from acquiring land for the national heritage area or from imposing zoning or land use controls in national heritage areas. Private property owners also should be provided with specific protection from the management entity regulating land use zoning, hunting or fishing or using federal funds to acquire land. Zoning decisions should remain in control of local communities. The support of private property owners should be considered in the context of determining if sufficient local support exists for designation.
5. **Partnerships and the Leveraging of Preservation Resources.** Also integral to the success of national heritage areas is the development of a working partnership among the National Park Service, state entities and the local communities. The National Park Service should provide the communities with technical and financial assistance, but not acquire any land or impose any zoning requirements. The local communities should participate by developing and implementing the management plan that will serve as a guide for interpreting the national heritage area.
6. **Achieving Self-Sufficiency/Limiting Limited Federal Resources.** To date, self-sufficiency has yet to be achieved with any national heritage area, and the first four national heritage areas established have sought and received Congressional extensions of their funding. With federal dollars leveraging an average of 8.7 times that amount in non-NPS partnership funds, national heritage areas can be a cost-efficient way to preserve important resources. However, because of our commitment to support the President's effort to address the deferred maintenance backlog, we must significantly limit the long-term commitment of federal funds to national heritage areas by requiring they become self-sufficient. To achieve this goal, we must study, prior to designation, whether an area has the resources and public support to achieve self-sufficiency over the long-term. Today, some of the national heritage areas have a cap of federal funding at \$50,000 while others receive up to \$1 million per year. Reasonable limitations on financial assistance from the Department should be developed and extensions to this funding should be avoided.

We look forward to working with the Subcommittee on translating these ideals into a generic national heritage area bill.

H.R. 1594 would authorize a study of the feasibility and suitability of designating as a national heritage area the island of St. Croix, which is located 40 miles south of St. Thomas and is the largest of the three islands that make up the territory of the United States Virgin Islands. This bill contains the criteria for making this determination that includes directing the Secretary to consult with State historic preservation officers, State historical societies, local communities, and other appropriate organizations. This criteria and the standard three-year time frame for conducting the study included in the bill are provisions included in other national heritage area studies that Congress has authorized in recent years.

The natural and cultural resources of St. Croix have been recognized through the establishment of three units of the National Park System there: Christiansted National Historic Site, Buck Island Reef National Monument, and Salt River Bay National Historical Park and Ecological Preserve.

The area that would be studied would encompass the historic towns of Christiansted, built in 1734, and Frederiksted, built in 1752. Alexander Hamilton, the first Secretary of the Treasury, spent his young adult years in Christiansted and educated himself while working as a clerk in his mother's small store. Christiansted is known primarily for its 18th and 19th Century Danish architectural design buildings; it has some of the finest examples of Danish architectural design in the West Indies. The town was laid out by Danish surveyors using a grid system and was the first in the West Indies that instituted both a building code and zoning. Street widths were regulated, easements were established, areas were zoned commercial

or residential, and building materials were specified. This urban planning scheme is still visible today.

Both Christiansted's and Frederiksted's historic architecture matured over a 100-year span. Neoclassical government buildings and residences blend with Gothic Revival churches, combination shop-residences, and wooden shingle cottages. The three residential styles demonstrate Christiansted's and Frederiksted's colonial social structure in the late 1700 and mid-1800's.

Archeological evidence shows migratory South American hunters-gatherers on the island as far back as 2500 B.C. By 1425, Carib Indians reached St. Croix in their westernmost territorial expansion. On November 14, 1493, during his second voyage to the new world, Columbus arrived at an area that today is part of Salt River Bay National Historical Park and Ecological Preserve to look for fresh water. This is the only site where Columbus' crew went ashore in the New World that is under the American Flag. St. Croix is also the site of the first recorded hostile encounter between Europeans and Native Americans.

During European rule of St. Croix, there were 218 sugar plantations, typically between 250 to 300 acres, with about 100 windmills and 100 animal mills. Many of these plantations are still in evidence today with their great houses, slave houses, windmills and animal mills still in good condition.

Also associated with St. Croix is Buck Island Reef National Monument, which was established by Presidential proclamation in 1961 to preserve one of the finest marine gardens in the Caribbean Sea. The monument was expanded in 2001 by a subsequent proclamation to help ensure the viability of the marine resources there. Located one-and-a-half miles off of St. Croix, the 176-acre island and surrounding coral reef ecosystem support a large variety of native flora and fauna, and provide a haven to several endangered and threatened species.

While these resources could be further examined during a national heritage study, the Department believes, as mentioned above, that action on legislation authorizing such a study should be deferred until generic heritage area legislation is enacted.

Should the Committee decide to move the bill, however, we would recommend one amendment. Section 1(c) requires the Secretary of the Interior to submit a report to Congress "on the findings, conclusions, and recommendations of the study." We have been informed by the Department of Justice that to the extent that this provision purports to require the Secretary of the Interior to make legislative recommendations to Congress, it appears to violate the Recommendations Clause of the Constitution, which reserves to the President the power to decide whether it is necessary or expedient for the Executive Branch to make legislative policy recommendations to the Congress. We would therefore suggest amending Section 1(c) to instead read: "...on the findings and conclusions of the study, as well as any recommendations the Secretary deems appropriate."

Mr. Chairman, that concludes my statement. I would be pleased to answer any questions you or other members of the Subcommittee may have.

---

**Statement of deTeel Patterson Tiller, Acting Associate Director for Cultural Resources, National Park Service, U.S. Department of the Interior, on H.R. 1618**

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on H.R. 1618, to establish the Arabia Mountain National Heritage Area in the State of Georgia.

The Department supports the national heritage area program, but recommends that the Subcommittee defer action on any individual national heritage area designation or study bill until generic national heritage area legislation is enacted.

Ideally, national heritage areas provide a cost-effective way to preserve nationally important natural, cultural, historic, and recreation resources through the creation of a working partnership between federal, state, and local entities. In addition, national heritage areas should be locally driven, locally supported, should not involve federal land acquisition or zoning, and protect private property rights. At its best, this program embodies Secretary of the Interior Gale Norton's "Four C's"—Communication, Consultation and Cooperation, all in the service of Conservation.

Some national heritage areas, however, have not met this ideal. For example, some national heritage areas have been designated without a clear indication of the ability of the management entity to assume responsibility for management of the area. The management entity subsequently has operated the area without a clear financial plan for achieving self-sufficiency without federal support. Consequently, it is time to step back, evaluate existing areas, and develop legislative guidelines that will shape future national heritage area designations.

The Department believes that a generic national heritage area bill should serve as a gatekeeper—making clear what qualities the area must possess and parameters under which designation will occur. We have almost twenty years of experience in administering national heritage areas and twenty-three existing national heritage areas to evaluate. In the absence of formal legislation to guide the national heritage area program, National Park Service (NPS) also has developed specific critical steps, identified later in this testimony, that should occur prior to designation and interim criteria that should be used for national heritage area suitability and feasibility studies. These steps and criteria have been field-tested, have proven to screen out many unqualified areas prior to recommending designation, and should serve as a possible starting point for any discussions on generic national heritage area legislation.

Based on our experience with the program, the Department would like to offer several considerations that we believe are key components of a successful national heritage area program.

1. **Studying the Area Prior to Designation.** In addition to the broad parameters that can be achieved by legislation, it is critical that have a process that evaluates the specific qualities of the area. Requiring that a suitability and feasibility study or some equivalent be conducted with a positive finding prior to recommending a designation should be an essential component of any generic heritage legislation that moves forward. Many of the issues discussed below could be evaluated during a national heritage area study.
2. **Nationally Important Resources.** In reality, most places in America have a special meaning to a particular group or are the site of some historic event. To be designated as a national heritage area, the area must contain nationally important natural, cultural, historic, or recreational resources. Not all resources should be considered nationally important and, in some cases, designation as a state or local heritage area may be more appropriate.
3. **Local Support and Initiative.** Local communities must not only support the designation in concept, but must be willing and interested in taking an active role in preservation efforts. They are responsible for developing and implementing the management plan for the area and should work towards a goal of achieving self-sufficiency. Given the important role local communities play in the success of national heritage areas, we also have concerns about the concept of establishing national heritage areas in places that contain large tracts of federal lands. We believe inclusion of large tracts of federal lands has the potential to create confusion and unneeded conflict between management regimes. Therefore, before studying any potential area that includes large tracts of federal lands, we recommend that consultation and concurrence of the land management agency should occur first.
4. **Private Property Rights.** Private property owners should be provided reasonable protections. Such protections include prohibiting the federal government from acquiring land for the national heritage area or from imposing zoning or land use controls in national heritage areas. Private property owners also should be provided with specific protection from the management entity regulating land use zoning, hunting or fishing, or using federal funds to acquire land. Zoning decisions should remain in control of local communities. The support of private property owners should be considered in the context of determining if sufficient local support exists for designation.
5. **Partnerships and the Leveraging of Preservation Resources.** Also integral to the success of national heritage areas is the development of a working partnership among the National Park Service, state entities, and the local communities. The National Park Service should provide the communities with technical and financial assistance, but not acquire any land or impose any zoning requirements. The local communities should participate by developing and implementing the management plan that will serve as a guide for interpreting the national heritage area.
6. **Achieving Self-Sufficiency/Limiting Limited Federal Resources.** To date, self-sufficiency has yet to be achieved with any national heritage area, and the first four national heritage areas established have sought and received Congressional extensions of their funding. With federal dollars leveraging an average of 8.7 times that amount in non-NPS partnership funds, national heritage areas can be a cost-efficient way to preserve important resources. However, because of our commitment to support the President's effort to address the deferred maintenance backlog, we must significantly limit the long-term commitment of federal funds to national heritage areas by requiring they become self-sufficient. To achieve this goal, we must study, prior to designation, whether an area has the resources and public support to achieve self-sufficiency over

the long-term. Today, some of the national heritage areas have a cap of federal funding at \$50,000 while others receive up to \$1 million per year. Reasonable limitations on financial assistance from the Department should be developed and extensions to this funding should be avoided.

We look forward to working with the Subcommittee on translating these ideals into a generic national heritage area bill.

H.R. 1618 would establish the Arabia Mountain National Heritage Area within the boundary defined by the map developed for the feasibility study for the heritage area. The legislation would name the Arabia Mountain Heritage Area Alliance as the management entity for the heritage area and provide for the Secretary of the Interior and the Alliance to carry out the legislation through a cooperative agreement. Provisions of the bill regarding the authority and duties of the management entity, the development of a management plan, and Federal technical and financial assistance that would be available to the heritage area are similar to provisions that have been included in legislation designating other heritage areas in recent years.

The proposed Arabia Mountain National Heritage Area would include parts of DeKalb, Rockdale, and Henry Counties that lie within the eastern side of the Atlanta metropolitan area. The heritage area would encompass the Davidson-Arabia Mountain Nature Preserve, the City of Lithonia, the Panola Mountain State Conservation Park, portions of the South River, and several active granite quarries.

The Arabia Mountain area, which is known primarily for its granite quarries, is rich in natural, cultural, and historic resources. Arabia Mountain and other nearby prominent granite formations have been linked to human settlement and activity for thousands of years, starting over 7,000 years ago with the quarrying and trading of soapstone. The area contains specific types of granite outcropping that are very rare and do not occur anywhere outside the Piedmont Region. Granite from this area has been quarried and used around the nation, including in buildings at the military academies at West Point and Annapolis.

The area retains an open and small-scale character, in contrast to the more intensively developed areas closer in to the City of Atlanta. The rapid growth of the metropolitan area in recent years has prompted a recognition among those involved in this proposal that there may be only a narrow window of opportunity to retain open lands and protect important resources before land costs and economics of development make such efforts much more difficult. The local governmental entities in the proposed national heritage area and the State of Georgia support national heritage area designation for this area.

In the view of the National Park Service, there are four critical steps that need to be completed before Congress establishes a national heritage area. Those steps are:

1. completion of a suitability/feasibility study;
2. public involvement in the suitability/feasibility study;
3. demonstration of widespread public support among heritage area residents for the proposed designation; and
4. commitment to the proposal from the appropriate players, which may include governments, industry, and private, non-profit organizations, in addition to the local citizenry.

The National Park Service believes that those criteria have been fulfilled through the work that was done by the Arabia Mountain Heritage Area Alliance and other entities, including the National Park Service, in conducting the feasibility study that was issued in February 2001. However, at this time we would like to focus our efforts on developing generic national heritage area legislation as mentioned earlier in this testimony.

Mr. Chairman, that concludes my statement. I would be pleased to answer any questions you or other members of the Subcommittee may have.

---

**Statement of deTeel Patterson Tiller, Acting Associate Director, Cultural Resources, National Park Service, U.S. Department of the Interior, on H.R. 1798**

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to present the Department's views on H.R. 1798, a bill to establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts.

The Department supports the national heritage area program but recommends that the Subcommittee defer action on any individual national heritage area designation or study bill until generic national heritage area legislation is enacted.

Ideally, national heritage areas provide a cost-effective way to preserve nationally important natural, cultural, historic, and recreation resources through the creation of a working partnership between federal, state, and local entities. In addition, national heritage areas should be locally driven, locally supported, should not involve federal land acquisition or zoning, and should protect private property rights. At its best, this program embodies Secretary of the Interior Gale Norton's "Four C's"—Communication, Consultation, and Cooperation, all in the service of Conservation.

Some national heritage areas, however, have not met this ideal. For example, some national heritage areas have been designated without a clear indication of the ability of the management entity to assume responsibility for management of the area. The management entity subsequently has operated the area without a clear financial plan for achieving self-sufficiency without federal support. Consequently, it is time to step back, evaluate existing areas, and develop legislative guidelines that will shape future national heritage area designations.

The Department believes that a generic national heritage area bill should serve as a gatekeeper—making clear what qualities the area must possess and parameters under which designation will occur. We have almost twenty years of experience in administering national heritage areas and twenty-three existing national heritage areas to evaluate. In the absence of formal legislation to guide the national heritage area program, National Park Service (NPS) also has developed specific critical steps, identified later in this testimony, that should occur prior to designation and interim criteria that should be used for national heritage area suitability and feasibility studies. These steps and criteria have been field-tested, have proven to screen out many unqualified areas prior to recommending designation, and should serve as a possible starting point for any discussions on generic national heritage area legislation.

Based on our experience with the program, the Department would like to offer several considerations that we believe are key components of a successful national heritage area program.

1. **Studying the Area Prior to Designation.** In addition to the broad parameters that can be achieved by legislation, it is critical to have a process that evaluates the specific qualities of the area. Requiring that a suitability and feasibility study or some equivalent be conducted with a positive finding prior to recommending a designation should be an essential component of any generic heritage legislation that moves forward. Many of the issues discussed below could be evaluated during a national heritage area study.
2. **Nationally Important Resources.** In reality, most places in America have a special meaning to a particular group or are the site of some historic event. To be designated as a national heritage area, the area must contain nationally important natural, cultural, historic, or recreational resources. Not all resources should be considered nationally important and, in some cases, designation as a state or local heritage area may be more appropriate.
3. **Local Support and Initiative.** Local communities must not only support the designation in concept, but must be willing, and interested, in taking an active role in preservation efforts. They are responsible for developing and implementing the management plan for the area and should work towards a goal of achieving self-sufficiency. Given the important role local communities play in the success of national heritage areas, we also have concerns about the concept of establishing national heritage areas in places that contain large tracts of federal lands. We believe inclusion of large tracts of federal lands has the potential to create confusion and unneeded conflict between management regimes. Therefore, before studying any potential area that includes large tracts of federal lands, we recommend that consultation and concurrence of the land management agency should occur first.
4. **Private Property Rights.** Private property owners should be provided reasonable protections. Such protections include prohibiting the federal government from acquiring land for the national heritage area or from imposing zoning or land use controls in national heritage areas. Private property owners also should be provided with specific protection from the management entity regulating land use zoning, hunting or fishing or using federal funds to acquire land. Zoning decisions should remain in control of local communities. The support of private property owners should be considered in the context of determining if sufficient local support exists for designation.
5. **Partnerships and the Leveraging of Preservation Resources.** Also integral to the success of national heritage areas is the development of a working partnership among the National Park Service, state entities and the local communities. The National Park Service should provide the communities with technical and financial assistance, but not acquire any land or impose any zoning

requirements. The local communities should participate by developing and implementing the management plan that will serve as a guide for interpreting the national heritage area.

6. **Achieving Self-Sufficiency/Limiting Limited Federal Resources.** To date, self-sufficiency has yet to be achieved with any national heritage area, and the first four national heritage areas established have sought and received Congressional extensions of their funding. With federal dollars leveraging an average of 8.7 times that amount in non-NPS partnership funds, national heritage areas can be a cost-efficient way to preserve important resources. However, because of our commitment to support the President's effort to address the deferred maintenance backlog, we must significantly limit the long-term commitment of federal funds to national heritage areas by requiring they become self-sufficient. To achieve this goal, we must study, prior to designation, whether an area has the resources and public support to achieve self-sufficiency over the long-term. Today, some of the national heritage areas have a cap of federal funding at \$50,000 while others receive up to \$1 million per year. Reasonable limitations on financial assistance from the Department should be developed and extensions to this funding should be avoided.

We look forward to working with the Subcommittee on translating these ideals into a generic national heritage area bill.

H.R. 1798 would establish the Upper Housatonic Valley National Heritage Area, encompassing 29 communities in western Massachusetts and northwestern Connecticut, extending 60 miles through the watershed of the upper Housatonic River, from Kent, Connecticut, to Lanesboro, Massachusetts. The bill would also identify the Upper Housatonic Valley National Heritage Area Inc. as the management entity for the national heritage area.

The Upper Housatonic Valley, sometimes referred to as "the fourteenth colony," is a singular geographical and cultural region that is characterized by significant national contributions in literature, art, music, and architectural achievements; its iron, paper, and electrical equipment industries; and scenic beautification and environmental conservation efforts. The region contains five National Historic Landmarks including the homes of W.E.B. Dubois, Edith Wharton and Herman Melville. Over 120 sites and 18 historic districts on the National Register of Historic Places dot the landscape. It was home to Nathaniel Hawthorne, painters Norman Rockwell and Jasper Johns, and sculptor Daniel Chester French, who sculpted the "Seated Lincoln" at the Lincoln Memorial. Among the Upper Housatonic Valley's early iron masters was Ethan Allen, the hero of Fort Ticonderoga and an early mercantile activist. Important events related to the Revolutionary War, Shays' Rebellion, and early civil rights activism also took place in the area. The region's performing arts centers—the Boston Symphony Orchestra's summer home at Tanglewood, Music Mountain, Norfolk Chamber Music Festival, Jacob's Pillow Dance Festival, Berkshire Theatre Festival, and Shakespeare & Company—are internationally known.

The Upper Housatonic Valley contains a myriad of natural resources and has been the beneficiary of a long history of innovative environmental conservation initiatives that have been influential across the country. These include pioneering state parks and private nature preserves and the first village improvement society in America, the Laurel Hill Association, of Stockbridge, Massachusetts. Four National Natural Landmarks, including unique bogs and an old growth forest, have been designated here. The Appalachian National Scenic Trail follows the length of the Upper Housatonic Valley.

The region was the site of pioneering endeavors in the iron, paper, and electrical generation industries. The iron industry, which was responsible for manufacturing 75% of the cannons used by the Continental Army during the American Revolution, was active from 1735 until 1923. The first mill in America to make paper from wood pulp was located in Stockbridge, Massachusetts.

Tied together by the Housatonic River, the region offers extensive opportunities for resource preservation, education, and tourism. The heritage area designation would link together several existing historic sites, such as protected iron smelting sites, to strengthen the understanding of the regional historical significance of the valley. The area also reflects the rich traditions and folkways of the Mohican Indians, Shakers, Yankee farmers, African Americans, and European immigrant groups. The educational and preservation value of the valley to residents was a major point of public support for designation.

There is extensive citizen involvement in heritage activities in the Upper Housatonic Valley involving a broad array of municipalities, private organizations, and individuals. The non-profit organization, Upper Housatonic Valley National Heritage Area Inc., has a broad-based membership and a strong track record in organizing heritage initiatives. Comments at public meetings, and those received as



the draft feasibility study concluded, indicate strong public support for national heritage area designation.

In the opinion of the Department there are four critical steps that need to be taken and documented prior to the Congress designating a heritage area. These steps are:

1. demonstration of widespread public support among heritage area residents for the proposed designation;
2. public involvement in the suitability/feasibility study;
3. commitment to the proposal from appropriate representatives from government, business, and private non-profit organizations, as well as local citizens; and
4. completion of a suitability/feasibility study.

The Department's Draft Feasibility Study for the Upper Housatonic Valley National Heritage Area found that the Upper Housatonic Valley meets the Department's ten interim criteria for designation of a national heritage area. The Upper Housatonic Valley is distinctive for having a landscape that includes a blend of industrial innovations, environmental conservation initiatives, and cultural achievements of national significance. However, at this time, we would like to focus our efforts on developing generic national heritage area legislation as mentioned earlier in this testimony.

This completes my testimony. I would be happy to answer any questions that you or any members of the Subcommittee may have.

---

**Statement of deTeel Patterson Tiller, Acting Associate Director, Cultural Resources, National Park Service, U.S. Department of the Interior, on H.R. 1862**

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to present the Department's views on H.R. 1862, a bill to establish the Oil Region National Heritage Area in the Commonwealth of Pennsylvania.

The Department supports the national heritage area program, but recommends that the Subcommittee defer action on any individual national heritage area designation or study bill until generic national heritage area legislation is enacted.

Ideally, national heritage areas provide a cost-effective way to preserve nationally important natural, cultural, historic and recreation resources through the creation of a working partnership between federal, state and local entities. In addition, national heritage areas should be locally driven, locally supported, should not involve federal land acquisition or zoning, and should protect private property rights. At its best, this program embodies Secretary of the Interior Gale Norton's "Four C's"—Communication, Consultation and Cooperation, all in the service of Conservation.

Some national heritage areas, however, have not met this ideal. For example, some national heritage areas have been designated without a clear indication of the ability of the management entity to assume responsibility for management of the area. The management entity subsequently has operated the area without a clear financial plan for achieving self-sufficiency without federal support. Consequently, it is time to step back, evaluate existing areas, and develop legislative guidelines that will shape future national heritage area designations.

The Department believes that a generic national heritage area bill should serve as a gatekeeper—making clear what qualities the area must possess and parameters under which designation will occur. We have almost twenty years of experience in administering national heritage areas and twenty-three existing national heritage areas to evaluate. In the absence of formal legislation to guide the national heritage area program, National Park Service (NPS) also has developed specific critical steps, identified later in this testimony, that should occur prior to designation and interim criteria that should be used for national heritage area suitability and feasibility studies. These steps and criteria have been field-tested, have proven to screen out many unqualified areas prior to recommending designation, and should serve as a possible starting point for any discussions on generic national heritage area legislation.

Based on our experience with the program, the Department would like to offer several considerations that we believe are key components of a successful national heritage area program.

1. Studying the Area Prior to Designation. In addition to the broad parameters that can be achieved by legislation, it is critical to have a process that evaluates the specific qualities of the area. Requiring that a suitability and feasibility study or some equivalent be conducted with a positive finding prior to

recommending a designation should be an essential component of any generic heritage legislation that moves forward. Many of the issues discussed below could be evaluated during a national heritage area study.

2. **Nationally Important Resources.** In reality, most places in America have a special meaning to a particular group or are the site of some historic event. To be designated as a national heritage area, the area must contain nationally important natural, cultural, historic or recreational resources. Not all resources should be considered nationally important and, in some cases, designation as a state or local heritage area may be more appropriate.
3. **Local Support and Initiative.** Local communities must not only support the designation in concept, but must be willing and interested in taking an active role in preservation efforts. They are responsible for developing and implementing the management plan for the area and should work towards a goal of achieving self-sufficiency. Given the important role local communities play in the success of national heritage areas, we also have concerns about the concept of establishing national heritage areas in places that contain large tracts of federal lands. We believe inclusion of large tracts of federal lands has the potential to create confusion and unneeded conflict between management regimes. Therefore, before studying any potential area that includes large tracts of federal lands, we recommend that consultation and concurrence of the land management agency should occur first.
4. **Private Property Rights.** Private property owners should be provided reasonable protections. Such protections include prohibiting the federal government from acquiring land for the national heritage area or from imposing zoning or land use controls in national heritage areas. Private property owners also should be provided with specific protection from the management entity regulating land use zoning, hunting or fishing or using federal funds to acquire land. Zoning decisions should remain in control of local communities. The support of private property owners should be considered in the context of determining if sufficient local support exists for designation.
5. **Partnerships and the Leveraging of Preservation Resources.** Also integral to the success of national heritage areas is the development of a working partnership among the National Park Service, state entities and the local communities. The National Park Service should provide the communities with technical and financial assistance, but not acquire any land or impose any zoning requirements. The local communities should participate by developing and implementing the management plan that will serve as a guide for interpreting the national heritage area.
6. **Achieving Self-Sufficiency/Limiting Limited Federal Resources.** To date, self-sufficiency has yet to be achieved with any national heritage area, and the first four national heritage areas established have sought and received Congressional extensions of their funding. With federal dollars leveraging an average of 8.7 times that amount in non-NPS partnership funds, national heritage areas can be a cost-efficient way to preserve important resources. However, because of our commitment to support the President's effort to address the deferred maintenance backlog, we must significantly limit the long-term commitment of federal funds to national heritage areas by requiring they become self-sufficient. To achieve this goal, we must study, prior to designation, whether an area has the resources and public support to achieve self-sufficiency over the long-term. Today, some of the national heritage areas have a cap of federal funding at \$50,000, while others receive up to \$1 million per year. Reasonable limitations on financial assistance from the Department should be developed and extensions to this funding should be avoided.

We look forward to working with the Subcommittee on translating these ideals into a generic national heritage area bill.

H.R.1862 would establish the Oil Region National Heritage Area comprising all of Venango County and a portion of Crawford County in western Pennsylvania. It would establish a cooperative management framework to assist the state in conserving, enhancing and interpreting the significant resources of the region. The bill would also designate Oil Heritage Region Inc. as the management entity for the national heritage area.

The Oil Heritage Region is known, appropriately, as "The Valley That Changed the World" due to the first successful oil well drilled by Colonel Edwin Drake with the assistance of William Smith, a Pennsylvania salt well digger, in 1859. This event had an overriding impact on the industrial revolution and continues to affect the daily life of the nation and the world.

The region contains the world renowned Drake Well Museum in Titusville, Oil Creek State Park and portions of the Allegheny Wild and Scenic River, the latter

designated by Congress in 1992, and administered by the U.S. Forest Service. It also contains six National Historic Districts, 17 sites listed on the National Register of Historic Places and an extensive collection of Victorian-styled architecture in Franklin, Oil City, Emlenton and Titusville. Remnants of the oil boom era, including McClintock Well #1, the oldest operating well in the United States, can be found throughout the region. The stories of early oil magnates and those who worked in the oil fields provide exceptionally rich interpretive opportunities related to the region's natural and cultural resources. This important heritage contributes not only to our own national story, but also to the advancement of industries and transportation systems throughout the world.

Oil Heritage Region is currently designated a State Heritage Park by the Commonwealth of Pennsylvania and its management entity, the Oil Heritage Region, Inc., is experienced in natural and cultural resources preservation and heritage-related programming. The management entity enjoys the support of local governments and organizations in the proposed national heritage area. Its board of directors is already representative of many interests in the region. The bill provides that the Secretary will confirm its expanded representation in approving the required management plan for the heritage area.

In the opinion of the Department there are four critical steps that need to be taken and documented prior to the Congress designating a heritage area. These stages are:

1. demonstration of widespread public support among heritage area residents for the proposed designation;
2. public involvement in the suitability/feasibility study;
3. commitment to the proposal from the appropriate representatives from governments, industry, and private, non-profit organizations, in addition to the local citizenry; and
4. completion of a suitability/feasibility study.

The Department has reviewed the existing heritage and interpretive plans undertaken by Oil Region Heritage, Inc. beginning in 1994 and, at the request of Representative John Peterson, conducted a week-long reconnaissance visit to confirm the region's eligibility for designation in early August 2000. During the visit, the team met with the Mayor of Oil City, the Community Development Officers of Oil City and Franklin, the City Managers of Oil City and Titusville, two County Commissioners, a Regional Representative of the Governor's Office, a State Legislator, the District Director of Representative John Peterson, and other local leaders and officials. Senior officials, working representatives of government agencies, and non-profit leaders were also involved in meetings and informal visits.

A feasibility report, entitled "Field Report on the Oil Region Heritage Park, Pennsylvania, as a National Heritage Area," was issued subsequent to the reconnaissance visit on September 15, 2000. It concludes that the Oil Heritage Region had completed the above steps and met the interim feasibility criteria for designation as a national heritage area. At the suggestion of the Department, Representative Peterson also sponsored two public meetings in February 2001. At the meetings, there was overwhelming support for designation of a national heritage area. However, at this time, we would like to focus our efforts on developing generic national heritage area legislation as mentioned earlier in this testimony.

That completes my testimony. I would be happy to answer any questions that you or any of the members of the Subcommittee may have.

---

Mr. RADANOVICH. Thank you very much, Mr. Patterson. We appreciate your testimony.

The Chair recognizes Mr. Udall, Mr. Mark Udall, for 5 minutes for questions.

Mr. MARK UDALL. Thank you, Mr. Chairman.

If I might, I would like to direct some questions to Mr. Hughes and Mr. Pease on H.R. 2909. Could you describe the working relationship between the BLM and the Air Force in the Utah West Desert?

Mr. HUGHES. If I might start, I know it is my understanding that we have at least three major MOUs, one dealing with the management of wild horses and burros. We also have an MOU regarding what happens if an aircraft goes down on BLM land. And then, I

think we also have a major MOU regarding firefighting activities on public lands.

Mr. PEASE. Sir, and I would say that is relatively standard in the three states where we have the largest land bases—we, I am saying the Air Force—in Utah, Nevada and Arizona. We have a very, very close working relationship with the BLM in those areas, and we do things like introduction of bighorn sheep up in areas very close to our—up in the Newfoundland Mountains, I believe, that were just reintroduced right in and around the bombing range and other things in other states. So it is a very, very close working relationship.

Mr. MARK UDALL. Excellent. Can either of you identify any specific problems that the wilderness study areas, the so-called WSAs, in the Utah West Desert have caused for the Test and Training Range over the last decade, say? Any specific problems that the wilderness study areas have caused in the Test and Training Range?

Mr. PEASE. I am unaware of any problems that they have caused up until now.

Mr. MARK UDALL. If we did not—I should put it more accurately. In the absence of H.R. 2909, which is the situation we are in right now, do you see anything that would prevent the BLM and the Air Force from continuing to work cooperatively? Mr. Hughes or Mr. Pease?

Mr. HUGHES. No.

Mr. PEASE. No.

Mr. MARK UDALL. And you have outlined some of the great working agreements that you have, the MOUs and so on, that are in place, and if Mr. Gibbons were here, he would want to talk about the wild horses and burros for sure, since that is a significant challenge in his state and along the Utah-Nevada border.

Moving on in my line of questioning, it sounds to me like the legislation that is being proposed is not necessarily going to solve any problems, because you all have not identified any problems, at least up to this point, in the hearing. Mr. Hughes?

Mr. HUGHES. I think the issue that we are talking about designating actual wilderness study areas or actually designating a wilderness area, which I think some of us think may have a higher threshold. So I think we are trying to understand, I know in Utah, where they do not have these—how these issues have been handled, for instance, in the California desert and other areas.

Mr. MARK UDALL. Mr. Pease, would you like to comment on that?

Mr. PEASE. Certainly; we realize that as we—I will tell you, as our relationship gets, in my estimation, and I have been doing this business for around 10 years, in uniform and now in the civilian sector within the civil service, our relationship is getting stronger and stronger with the Bureau of Land Management over that period of time. And we are learning a lot of things about how we operate. I believe that wilderness study areas, the disadvantage, if you will, of a wilderness study area is that it does freeze the status quo for a period of time.

And so, we know that we cannot do some things in a wilderness study area until they are designated as wilderness. We have been successful in working with the Bureau of Land Management

groups, states, this Committee, drafters of bills, of wilderness bills in California and Arizona, et cetera, to be able to preserve the compatibility of uses between the military and the land management agencies but also allow for a certain amount of flexibility to do our mission a little bit better, whereas, the letter of the law, perhaps, in the Wilderness Study Act would not allow us to do that, because those pieces of land are frozen, if you will, in time until they come to some wilderness bill one way or another.

So that would be the advantage, if you want, of a wilderness bill itself.

Mr. MARK UDALL. So in an interesting way, there is some uncertainty in the wilderness study area approach that if we had wilderness would be more easily determined what you can and cannot do and how you would work with the BLM?

Mr. PEASE. It might be able to provide us with some flexibility for doing some things that would be compatible that the letter of the law would not allow us as it relates to the Wilderness Study Act.

Mr. MARK UDALL. My last question as my time begins to end, and directed to Mr. Hughes, is: Are you saying that we might have to consider the Air Force's needs if and when Congress considers legislation to designate the WSAs as wilderness?

Mr. HUGHES. No, I think what I attempted to say, and if I did not, I apologize, that we are trying to understand—some of the lands that are included, that we think are included in wilderness, in the proposed wilderness area, we really have not looked closely at, because it was not part of our WSA. Those areas may be areas that there might be some ongoing activities in or some plans for some activities, so we are just trying to understand what the Air Force's needs might be in the future and how that will play into the designation and what type of management schemes we can have there that can balance their need and the need for the military in the 21st Century versus our need to protect the resources out there.

Mr. MARK UDALL. Mr. Chairman, I see my time has expired, but I would just ask Mr. Hughes and perhaps Mr. Pease to consider a question that we could have answered, perhaps, later, which is it sounds like you might be making a case that the bill is premature at this point, that there is more work to do to understand where we might go.

Thank you, Mr. Chairman.

Mr. RADANOVICH. You are welcome. Thank you, Mr. Udall.

The Chair recognizes Mr. Bishop from Utah.

Mr. BISHOP. Thank you again. Mr. Hughes, first of all, I would like to thank you for your testimony and thank you also for the help and the effort that you have done in all types of land issues in the State of Utah and with my office. And as the Congressman from Colorado has pointed out, there is a wonderful working relationship that we have right now which is the product of some very positive, proactive personalities that are down there.

For obvious reasons, one of the reasons I would like to do this bill—and I will admit it—it is early on—is to make sure we take a proactive position to ensure this, which is the only land mass that we have to do these types of activities forever. So I want you

to know first of all, I appreciate your invitation to continue to work with you as we have with the local leaders as we look especially at the proposed wilderness piece to maybe be creative in both the south as well as the north.

Our starting point was obviously the bill that passed the House last year as to what would be designated as wilderness, and I would be more than happy to work with you, and I appreciate that opportunity to do so in the future as we look creatively at the southern piece as well as the northern piece so that you have the maximum ability to manage the property as well.

Mr. Loman, I would like to ask you one question: as far as the testimony you gave, does the administrative process that you mentioned in your testimony as being frustrated by this legislation take into account any consideration of potential negative impacts of the PFS proposal on the Utah Test and Training Range or national security?

Mr. LOMAN. Your question is does it take into account the negative effects?

Mr. BISHOP. Potential negative effects that that activity may have, specifically on the UTTR and national security.

Mr. LOMAN. I would have to say because the NRC completed an environmental impact statement for this project, the answer would be yes.

Mr. BISHOP. Thank you.

Mr. Pease, Colonel Pease, I appreciate your speaking. I guess the first question is simply this Utah Test and Training Range, for which we are talking about here, are there things that are done on there, types of training activities, that can be done nowhere else in the United States?

Mr. PEASE. We do the predominant amount of our cruise missile testing there. It is a large range, and we have other ranges that can do some of those things, but most of the cruise missile testing is done right there at the Utah Test and Training Range.

Mr. BISHOP. I understand that you have some other ranges that are over water that would give you the same kind of space that is here. Is there any other place that you have the same kind of land capabilities or air space capabilities that you have here?

Mr. PEASE. Well, we know that we have unique military values on all of the ranges that we have in the Air Force. We have some places that have larger pieces of air space in Alaska, for instance. We have over land and all kinds of different combinations. As far as the combination of land and air space, the Utah Test and Training Range is as large as any one of them.

Mr. BISHOP. Thank you. Colonel, in testimony that was given to the Nuclear Regulatory Commission, you stated the Air Force requires unrestricted access to this corridor in the severe MOU—that is the one that may be impacted. Approximately 70 to 80 percent of all fighter and bomber training missions use this southern portion. If military aircraft were restricted from flying in the vicinity of a storage facility, if that were a decision, that would delay tactical maneuvering and subsequently reduce the effective training for each sortie flown to the southern portion of the Utah Test and Training Range.

If I may quote from the next page as well: degradation of our operational test and training capabilities would be unacceptable. Consequently, any proposed location must not restrict current UTTR operations. The Air Force's interest is to ensure continued testing and training activities at this vital facility. Therefore, the Air Force opposes any restrictions that might result in the siting of the proposed PFS facility that would impair our ability to test equipment or train our military men and women on the land and the air space associated with the UTTR.

Realizing that the final adjudication of whether a risk is or is not there has not been finally stated, and that still is open to some debate, do you still stand by these statements as to the impact and the importance to the UTTR?

Mr. PEASE. Yes, sir, and this is consistent with our statement about our operations as they relate to other facilities of this same nature. The citing of the facility, our interest has not been necessarily on the siting itself but on the impact to our operations, and our position has been that we would not accept restrictions to our operations associated with a siting of a particular piece of infrastructure of this kind.

Mr. BISHOP. Thank you, Colonel. I appreciate that.

Mr. Tiller, I actually have a question for you, so how are you?

Mr. TILLER. Fine. Yourself?

[Laughter.]

Mr. BISHOP. Good, thank you.

Mr. Chairman, that concludes my questions for this panel.

[Laughter.]

Mr. RADANOVICH. Thanks, Mr. Bishop.

The Chair recognizes Mr. Tom Udall for 5 minutes.

Mr. TOM UDALL. Thank you very much, Mr. Chairman.

I guess my question is directed to Mr. Hughes and Mr. Loman. Your testimony indicates that the Department of the Interior has some vague concerns with the prohibition on rights-of-way contained in H.R. 2909. Can you be more specific as to what those concerns are?

Mr. HUGHES. If I might, we have, as I indicated, two pending right-of-way applications. We also have 12 existing applications—or 12 existing rights-of-way that could come up for renewal during this timeframe that the bill prohibits. They include, just to give you an example, the Union Pacific Railroad from Salt Lake City to Sacramento; old U.S. Highway 40; Interstate Highway 80, and those are the types of things that we want to work with the Committee on to make sure that they are aware that this sort of blanket prohibition may impact those rights-of-way at a future date.

Mr. TOM UDALL. So what is your position on the bill prohibiting or denying the rights-of-way?

Mr. HUGHES. Generally speaking, I think we generally dislike anything that prohibits administrative actions, you know, in a blanket way such as that.

Mr. TOM UDALL. So today, you are taking a position against that prohibition in the bill?

Mr. HUGHES. I think we would like to discuss that with the Committee. That is correct.

Mr. TOM UDALL. Well, at first, I thought you seemed to say that you would disapprove of that. I am trying to figure out what your position is today with regard to the prohibition in the bill. And I thought you said that we would generally disagree with that kind of thing being inserted in the bill.

Mr. HUGHES. Yes, yes, we have concerns about that being in the bill, for, again, some of the reasons I gave.

Mr. TOM UDALL. Well, I know you have concerns, but I would like to know: do you oppose it being in the bill, that kind of prohibition?

Mr. HUGHES. I think that is probably correct.

Mr. TOM UDALL. And Mr. Loman can agree with that, too?

Mr. LOMAN. With respect to the prohibition that is going to prohibit the application for the proposed 30-mile railroad to the spent storage facility, we oppose that prohibition to that specific application for that transportation rights-of-way, because we believe that that is what will halt the ongoing process that will allow us to determine whether or not that proposed spent nuclear fuel storage facility is a viable option for our Indian beneficiaries.

Mr. TOM UDALL. So you oppose the prohibition on the rights-of-way in H.R. 2909?

Mr. LOMAN. Yes, sir.

Mr. TOM UDALL. Yes.

No further questions. Thank you, Mr. Chairman.

Mr. RADANOVICH. Thank you, Mr. Udall.

The Chair recognizes Mr. Duncan for 5 minutes.

Mr. DUNCAN. Mr. Tiller, the staff has provided a statement here that says the Santa Monica Mountains National Recreation Area is approximately 153,000 acres, and the Rim of the Valley Study Area is over 491,000 acres. If the conclusion of the study is in the affirmative, the Secretary would recommend tripling the size of the unit and, at the same time, placing thousands of private property owners within the boundary of a National Park unit. Is that statement correct, and do you know how many private property owners we are talking about? The staff says thousands. Do you have any specific number?

Mr. TILLER. With respect to that question, sir, no, I do not, but we can provide that for the record afterwards.

On the larger issue, I think a number of things. One of the things that I think makes the Santa Monica Mountains such a successful management area is it is a great complexity of public and private lands, and it is probably safe to say it is more in the model of the parks of now and parks of the future rather than large acquisitions in fee or in interest by the Federal Government. And I think that is what has made Santa Monica Mountains so successful to date.

My guess, without preempting the study and the consideration be done jointly by the two departments; I suspect that you will see that the final recommendations will be in the neighborhood of little to no acquisition in fee or interest by the Federal Government and, like many of the heritage areas in which I have testified a little bit later in my comments, you will see joint management by many entities. So I think that the likelihood that this study will come out



recommending large increases in the size of the park and in Federal ownership would be very unlikely.

Mr. DUNCAN. Well, let me ask you this: a witness who will testify later says that he is submitting letters from 34 Los Angeles area residents, including property owners and recreational units in and near the proposed study region; all of these very strongly oppose H.R. 704, and he ends up and says in conclusion, H.R. 704 has significant regional opposition from property owners and public access community leaders. Up to this point, they have had no idea what the NPS and the Conservancy have had in store. Supporters should go back to the drawing board and, this time around, begin an inclusive discussion process.

If somebody has been alerted because of this hearing about this going on, when would be the next opportunity for opponents to show up and express their disapproval about this?

Mr. TILLER. I think probably the best indication, those of you who are familiar with the sorts of studies that we undertake in these sorts of situations; we usually build these things out somewhere in the neighborhood of \$250,000 to do the study; we have recommended and anticipate more than doubling that in the case if this goes forward, and this bill is made law. Given the complexity of landownership, given the complexity of people interested in this, and given the density of the population, public consultation, public meetings, notices in newspapers, I think the Department of the Interior and Department of Agriculture will definitely guarantee you significant and multiple accesses for private property owners and everyone interested in this issue to participate in this process.

Mr. DUNCAN. Let me ask you this: you have got what? 354 units in the National Park system or somewhere around that?

Mr. TILLER. 388.

Mr. DUNCAN. 388? All right; how many national recreation areas are there?

Mr. TILLER. I am sorry, Congressman, I do not know off the top of my head.

Mr. DUNCAN. How many national heritage areas are there?

Mr. TILLER. There are 23 national heritage areas.

Mr. DUNCAN. And there are what? Five more being proposed here today?

Mr. TILLER. Yes, sir.

Mr. DUNCAN. And then, how many national conservation areas are there?

Mr. TILLER. I am not sure, sir. We will get you that for the record.

Mr. DUNCAN. How many wildlife refuges are there?

Mr. TILLER. I am not aware of that either at the moment.

Mr. DUNCAN. We always hear about the Park Service not having enough money and having backlogs in maintenance and so forth. It would seem to me that it would be better for the Park Service to try to take better care of what they have instead of continuing to expand, expand, expand and take over more property under whatever guise. But I do not know.

Mr. Loman, let me ask you this on the Utah situation: are there no other economic options available to the Goshutes than the nu-

clear waste storage? Because that storage apparently, from what I am told, is adamantly opposed by many, many residents of Utah.

Mr. LOMAN. There are very few economic development opportunities, considering that the land is surrounded by waste facilities, the tribal land, including radioactive disposal sites and chemical and biological weapons depots. We are working with the band to identify other opportunities, and we have committed to the band that pursuing any such opportunity would not be a substitute for the proposed nuclear fuel storage facility.

Mr. DUNCAN. All right; thank you very much. Thank you, Mr. Chairman.

Mr. RADANOVICH. Thank you, Mr. Duncan.

Ms. Bordallo, you are recognized for 5 minutes. No time? Great.

Mr. Peterson, you are recognized for 5 minutes—I am sorry; Mr. Cannon.

Mr. CANNON. Thank you, Mr. Chairman. Mr. Peterson was here a moment ago. He had to get a phone call.

Mr. RADANOVICH. I am hearing and seeing different things here.

Mr. CANNON. Mr. Chairman, I do not have any questions. I think I will yield some time to Mr. Bishop. But I would like to thank the panel for being here today. These are great guys, especially, as Mr. Bishop said, Mr. Hughes has been very, very helpful on our public lands issues in my district as well. I wanted to thank him in particular.

And with that, I would like to yield to Mr. Bishop.

Mr. RADANOVICH. Certainly.

Mr. BISHOP. Thank you.

Mr. Loman, I was concerned with the last answer that you just happened to give. I understand that even if there are other economic opportunities that are presented to the Goshute Band that they still would like to pursue this particular one that deals with PFS and nuclear storage, right? Even if anything else was out there, they would still be moving forward or have expressed to you their willingness to move forward still with the PFS proposal.

Mr. LOMAN. I cannot speak for what they want to do.

Mr. BISHOP. All right; well, I will ask them when they come up here.

But are you aware of any other proposals that the band is currently seeking or currently working that would use their reservation land for other proposals that would not include this particular one?

Mr. LOMAN. I am not, sir.

Mr. BISHOP. Well, then, we will ask them, too, to find out more about what they are doing there. Thank you.

Mr. CANNON. Mr. Chairman, I yield back.

Mr. RADANOVICH. Thank you.

The Chair recognizes Mr. Schiff for 5 minutes.

Mr. SCHIFF. Mr. Chairman, I want to thank you, and I will not take the 5 minutes. I just wanted to extend my thanks to the Park Service for their support of 704, and we would obviously invite the feedback that Mr. Duncan alluded to and look forward to having a full and public discussion of any issues concerning the bill.

Thank you. Thank you, Mr. Chairman, I yield back.

Mr. RADANOVICH. Thank you, Mr. Schiff.

The Chair recognizes Mr. Peterson of Pennsylvania for 5 minutes.

Mr. PETERSON. Thank you very much.

Pat, I would like to, I guess, have a dialog with you. Thank you for coming today, and I thank the Chairman for including this legislation on this hearing. My interest is H.R. 1862. I live five miles from Drake's Well, where the first oil well was drilled and where the whole oil industry started. I mean, this is where every major oil company in this country has its roots. And I vividly remember a number of years ago when we started this process, the Park Service was reluctant, but they sent a team out. But they came back excited that if there is something, if there is a heritage area that ought to be, oil ought to be one, because it is the valley that changed the world, and it is the area that changed how—that started the Industrial Revolution in this country, and there is just rich history there.

In your testimony, you stated several considerations that the Park Service believes to be key components—this is in your written testimony—of a successful national heritage area and, as well, four critical steps that need to be taken and documented prior to Congress designating a heritage area, the first being to study the area prior to designation. In September of 2000, the National Park Service issued a field report that stated based on the results of the analysis of the components of the study, the field reconnaissance and the information provided by the Oil Heritage Region, Inc., no additional study should be needed on this one; is that correct?

Mr. TILLER. That is correct, sir.

Mr. PETERSON. The second point in your testimony states that the area must contain nationally important, natural, cultural, historic or recreational resources. I do not think we have any disagreement that the Oil Heritage Region meets each and every one of these criteria, correct?

Mr. TILLER. We do not.

Mr. PETERSON. The third consideration is the concept of the local support and initiative, and in your testimony, you stated that at two public hearings held in February 2001, there was overwhelming support for the designation of a national heritage area.

Mr. TILLER. That is correct.

Mr. PETERSON. Fourth, you suggest that private property owners should be provided reasonable protection. Well, as a member of the Western Caucus, one of the few from the East, I wholeheartedly agree that property rights are an extremely important issue. And, however, the point of this bill is to preserve the history of the region. It is not my goal to provide a vehicle to steal Grandma Smith's farm or enforce Federal zoning laws within the area. I have been a leading proponent of property rights since I came to Congress and will continue to be one. I strongly believe that this bill goes above and beyond in protecting the rights of property owners.

Next, you state the development of a working partnership among NPS, state entities and the local communities are vital to the success of the region. During the field study done in 2000, the team met with numerous private, public and nonpublic officials, all of whom agreed to work together as partners to develop the area. Fi-

nally, you suggest that the designated areas must have a clear financial plan to obtain self-sufficiency. The Oil Heritage Area is already currently a self-sufficient operation in which, to quote the field report again, the ability to garner the much-needed financial support to preserve the significant assemblage of natural, historical and cultural resources would be enhanced with a national designation, because it has been a state designation since 1994.

In the field report done in September, the Department stated that with the recommended changes which are reflected in H.R. 1862, the Oil Heritage Region should be designated as a national heritage area without further suitability or feasibility analysis. Do you agree with that?

Mr. TILLER. That is correct.

Mr. PETERSON. OK; and a letter sent to the former Chairman of this Subcommittee and Committee Chairman Hansen on October 11, 2001, the Department stated that the following review of the study by the National Park Service leadership, the Department now has no objections to the establishment of the Oil Heritage Region.

Mr. TILLER. That is my understanding, yes.

Mr. PETERSON. I guess I just want to give one sales pitch here. I live near here. This area contains the world-renowned Drake Well Museum, Pit Hole Museum, Oil Creek State Park, Allegheny Wild and Scenic River Area; it also contains six national historic districts, 17 sites listed on the National Register of Historic Places, and the largest collection of Victorian homes in the country, and I live in one of those, and that has been a pleasure. It has not been cheap, but it has been a pleasure.

[Laughter.]

Mr. PETERSON. Remnants of the oil boom era, including McClintock Well No. 1 in Oil City, which is known as the oldest operating well in the world, and those kinds of sites can be found throughout the region. The stories of early oil magnates and those who worked in the oil fields provide exceptionally rich interpretive opportunities related to the region's natural and cultural resources.

This important heritage contributes not only to our own national story but also to the advancement of industries and transportation systems throughout the world, and I guess in my view, the debate around energy today brings back the relevance of what happened here many, many years ago.

Yet, in your testimony today, you recommend that this Subcommittee defer action on this bill until generic heritage area legislation is enacted, even though H.R. 1862 has met or exceeded each and every one of your proposed criteria for the bill.

Mr. TILLER. That is correct.

Mr. PETERSON. Why should we wait, when everybody thinks it should have been done a long time ago, we should be collecting and getting the history of oil so all of Americans can understand it, our future generations can understand it? I live in an area that has been pretty hard-hit economically; to promote tourism, you know, why should we wait?

Mr. TILLER. The potential Oil Heritage Area and others being considered today, like the Upper Housatonic, are, as you pointed out, spectacular nationally significant resources with great local

support, and we are certainly sympathetic with the desire to get moving on that.

As I said in my testimony, we have spent close to 20 years on this in the absence of any sort of administrative or regulatory framework. And I know it is the feeling of the Department, all the while not wanting to slow down this enthusiasm and the benefits that accrue from these things, that it is time to draw the line; work quickly with this Committee and with their counterparts in the Senate and to try to establish this framework. And we are very sympathetic with all of the great enthusiasm and energy in your district and the other ones in the area, but the Administration feels that it is time to get this program established after this time so that we can move forward.

And we know that there are many more being considered out there across the country also, and it is the time.

Mr. PETERSON. I think there have been lots of heritage areas proposed historically that in no way or pale in significance to the history of oil in this country, the history of oil in the world.

I guess I want to thank you for your testimony and your graciousness and this good cooperation from the Department, but I guess I would like to say to the Chairman that I hope that that testimony is not heeded and that we can move forward. You know, the last session, this bill passed unanimously and was within minutes of being law in the Senate, and then, somehow, it got fumbled at the closing hours of the Senate, or it would have been law today.

I find it troubling that we have to wait until—because I think this bill, the way it has been processed by the Committee, can be the pattern of how it should be done, and the legislation can be drafted after the fact as to here is how we ought to do them. And so, I guess I would want to thank everybody for your participation. But the Oil Heritage needs to be done sooner, not later, and I hope we can accomplish that.

Mr. RADANOVICH. Any other further questions?

I want to thank the panel. The Committee thanks the panel for your testimony here. It is very valuable. And I appreciate your appearance here today. Thank you very much.

Mr. RADANOVICH. With that, I will call up our third panel, consisting of Mr. Randy Johnson, Deputy Director of the Planning for Public Lands of the State of Utah, Salt Lake City, Utah; Mr. Scott Greene, Southern Utah Wilderness Alliance, Washington, D.C.; Mr. Leon D. Bear, Chairman of Skull Valley Band of Goshute Indians in Salt Lake City; the Hon. Anthony Portantino, member of the Santa Monica Mountains Conservancy Advisory Committee; and Mr. Mike Hardiman, Legislative Director for the American Land Rights Association in Washington, D.C.

If you gentlemen would please take your seats. Gentlemen, thank you for being here today. What we will do is start with Mr. Johnson on my left and work through. Everybody has got 5 minutes. The lights are your guide there. Green means go, just like a traffic light; yellow means speed up; and red means stop.

[Laughter.]

Mr. RADANOVICH. So please abide by the rules, and keep your testimony within 5 minutes. And then, after that, we will open it up to questions from members here on the Committee.

Mr. Johnson, welcome to the Committee. We appreciate your testimony on H.R. 2909. Thank you, sir.

**STATEMENT OF RANDY JOHNSON, DEPUTY DIRECTOR,  
PLANNING FOR PUBLIC LANDS, STATE OF UTAH, SALT LAKE  
CITY, UTAH**

Mr. JOHNSON. Thank you very much, Mr. Chairman, Subcommittee members. I thank you for this opportunity to testify before the Committee on Resources regarding H.R. 2909, the Utah Test and Training Range Protection Act. By way of introduction, I serve as the state deputy director of planning and public lands specialist for the Governor's Office and speak on behalf of the Governor's Office of the State of Utah.

Utah is a state of beautiful and widely diverse landscapes. Over 70 percent of the State of Utah is public land. This makes for some very interesting and difficult economic challenges, due to the lack of private land base. It also makes Utah pretty much the poster child for public land management conflict issues.

As we well know, Utah is divided by many interests concerning the management and enjoyment of our public lands. There are very passionate people on all sides of these issues, and collaboration on public land management has been extremely difficult if not impossible in the past.

Bringing each relevant stakeholder to the table requires a lot of time and patience, and exacting a solution is even more difficult. We are here in support of this legislation, because it is the exception to the rule and represents a collaborative process that Congressman Bishop has begun and continues to diligently follow. The State of Utah recognizes this and supports this legislation as an example of achieving a balance between competing economic and environmental interests. Governor Leavitt has long been an advocate of a similar approach with his principles in the State of Utah and would be pleased to make progress on wilderness designation in this state.

This legislation demonstrates that although there are diverse uses of our public lands, it is possible for these uses to overlap and coexist. We believe that this legislation achieves a balance between competing economic and environmental issues. The Utah Test and Training Range is of national significance. It is of vital and unparalleled value for all the branches of the military service that train there, and there are also areas nearby with significant wilderness qualities.

By protecting both the UTTR and the Cedar Mountains, this legislation balances the interests of Utah's fifth-largest employer as well as our national security with responsible land management practices. Most Utahns favor a balanced approach. In fact, in a recent poll, when given a choice as to whether we should protect the environment at the expense of the economy, the economy at the expense of the environment or whether we should be able to achieve a balance between the two, 75 percent of Utahns believed that we should and can achieve a balance. H.R. 2909 is a sincere effort to do just that.

Another area of our support is toward the collaborative process involved in this legislation. We believe that this legislation could

be a step forward in resolving conflicts on public lands and achieving some level of balance between many competing interests. Resolving conflicts on public land management issues is not easy in Utah. Solutions must be tailor-made to fit the actual conditions that exist on the ground.

While this is arduous and difficult, it is important that this be the way we make progress on public land management issues. H.R. 2909 is an attempt to do just that.

Now, being mindful of our basic support for this legislation, the State of Utah does have some concerns about this bill in its present form, and I would speak of two. First, H.R. 2909 does not address the ability of the Utah Division of Wildlife Resources to maintain existing water sources in the Cedar Mountains. The State installed 21 guzzlers that provide water to wildlife in the Cedar Mountains area, and these guzzlers are crucial to maintaining healthy populations of wildlife because of the lack of available water resources.

The State has a great interest in maintaining these water developments and would ask that the Congress include language preserving our ability to access and maintain them.

Our second area of concern is that H.R. 2909 does not address the issue of water rights. Water is an extremely important resource in the desert areas of the State of Utah, and because of minimal water resources on the Cedar Mountains, a federally reserved water right would only impair the State's ability to manage wildlife and truly would serve no useful purpose. The State would like Congress to include language clarifying that this legislation does not reserve or claim a Federal water right in the Cedar Mountain area.

In summary, the State of Utah supports this legislation, because it attempts to balance competing environmental and economic interests. We also support this legislation because it is the result of a collaborative process. Governor Leavitt has often said that there is very little to be gained on the two extremes of any issue but much to be gained by drawing people together toward the larger center and honest efforts to reach workable solutions.

We support any effort to move forward, reach balance, find solutions, and feel that this legislation makes an effort to work in that direction. We look forward to working with Congress and this Committee to resolve and clarify any concerns the State may have, and we are confident that we will be able to do exactly that.

Thank you again for this opportunity to testify.

[The prepared statement of Mr. Johnson follows:]

**Statement of Randy Johnson, Deputy Director of Planning for Public Lands, State of Utah, on H.R. 2909**

Mr. Chairman and Committee Members: I thank you for this opportunity to testify before the Committee on Resources regarding H.R. 2909, the Utah Test and Training Range Protection Act. By way of introduction, I serve as the Deputy Director of Planning and public lands specialist for the Governor's Office. I speak on behalf of the Governor's Office of the State of Utah.

Utah is a state of industrious, friendly, hardworking people. It is also a state of beautiful and widely diverse landscapes from the great salt flats in the northwest, to the red rock canyons and deserts of the southeast, to the alpine mountains of the northeast, to the rapidly growing communities of the southwest. Over 70% of Utah is public land. This makes for some very interesting and difficult economic challenges due to this lack of private land base. It also makes Utah the poster child for public land management conflict.

As you well know, Utah is divided by many interests concerning the management and enjoyment of our public lands. These divisions have created much strife over the years and have resulted in endless deadlock. These controversial issues, however, are not the focus of my testimony today. There are very passionate people on all sides of these issues, and collaboration on public land management has been extremely difficult, if not impossible, in the past. Bringing each relevant stakeholder to the table requires a lot of time and patience, and exacting a solution is even more difficult.

We are here in support of this legislation because it is the exception to the rule, and represents a collaborative process that Congressman Bishop has begun and diligently followed. The State of Utah recognizes this and supports this legislation as an example of achieving a balance between competing economic and environmental interests. UTTR is of national significance. It is of vital and unparalleled value for all of the branches of military service that train there. Governor Leavitt has long advocated a similar approach with his Enlibra principles. In fact, we have identified two main areas of support. The first is based on this area of balance, the second is based on the concept of collaboration.

This legislation demonstrates that, although there are diverse uses of our public lands, it is possible for these uses to overlap and co-exist. We believe that this legislation achieves a balance between competing economic and environmental interests. By both protecting the Utah Test and Training Range and the Cedar Mountains, this legislation balances the interests of Utah's fifth-largest employer as well as our national security with responsible land management practices. Most Utahns favor such a balanced approach. In fact, in a recent poll, when given the choice as to whether we should protect the environment at the expense of the economy; protect the economy at the expense of the environment; or if we can achieve a balance between the two, 75% of Utahns said that we can and should achieve a balance. H.R. 2909 is a sincere effort to do just that.

Our second area of support is toward the collaborative process involved in this legislation. We believe that this legislation could be a step forward in resolving conflicts on public lands and achieving some level of balance between the many competing interests. Many have advocated one-size-fits-all solutions to resolving conflicts, but things are not that simple and easy in Utah. Solutions must be tailor-made to fit the actual conditions that exist on the ground. While this is arduous and difficult, it is important that this be the way that we make progress on public land management issues. H.R. 2909 attempts to do just that.

Being mindful of our basic support, the State of Utah does have some concerns about the bill in its present form. I will speak of two. First, H.R. 2909 does not address the ability of the Utah Division of Wildlife Resources to maintain existing water sources within the Cedar Mountains. The State installed 21 guzzlers that provide water to wildlife in the Cedar Mountains area. These guzzlers are crucial to maintaining healthy populations of wildlife in this area because of the lack of available water resources. The State has a great interest in maintaining these water developments, and would ask that the Congress include language preserving our ability to access and maintain them.

Our second area of concern is that H.R. 2909 does not address the issue of water rights. Water is an extremely important resource in the desert areas in the State of Utah. Because of the minimal water resources in the Cedar Mountains, a federally reserved water right would only impair the State's ability to manage wildlife, and would serve no real purpose. The State would like Congress to include language clarifying that this legislation does not reserve or claim a water right in the Cedar Mountains area.

In summary, the State of Utah supports this legislation because it attempts to balance competing economic and environmental interests. We also support this legislation because it is a result of a collaborative process. Governor Leavitt has often said that there is very little to be gained on the two extremes of any issue, but much to be gained by drawing people together toward the larger center in honest efforts to reach workable solutions. We support any effort to move forward, reach balance, and find solutions, and feel that this legislation makes an effort to work in that direction.

We look forward to working with Congress and this Committee to resolve and clarify any concerns the state may have. We are confident that we will be able to do that. Thank you again for the opportunity to testify.

---

Mr. RADANOVICH. Thank you, Mr. Johnson.



Mr. Scott Groene, welcome to the Subcommittee, and you may begin your testimony.

**STATEMENT OF SCOTT GROENE, SOUTHERN UTAH  
WILDERNESS ALLIANCE, WASHINGTON, D.C.**

Mr. GROENE. Thank you. My name is Scott Groene. I am a staff attorney with the Southern Utah Wilderness Alliance. I speak today also on behalf of the Natural Resources Defense Council, the Wilderness Society and the Campaign for America's Wilderness.

In summary, we have serious concerns with H.R. 2909. There has been inadequate information provided to determine the effects of this legislation on public lands. We are also concerned with the adverse effect the existing bill would have on designated wilderness and wilderness study areas. H.R. 2909 covers hundreds of thousands of acres of Bureau of Land Management lands that qualify as wilderness in Utah's basin and range country known as the West Desert and would directly affect at least nine wilderness study areas.

These WSAs, which cover only a fraction of the West Desert's qualifying wilderness, have outstanding scenic and biologic values. Each of these WSAs covers an isolated ecosystem, a biological island surrounded by desert playas where many unique species have evolved and survived after separation from a larger historic range. The legislation would also directly affect the Cedar Mountains.

Over 20 years ago, the BLM performed a wilderness inventory of the central unit of this range and identified approximately 50,000 acres that was designated the Cedar Mountains Wilderness Study Area. The agency subsequently acknowledged that this inventory was flawed and inadequate and in the late 1990s set about to conduct a comprehensive and accurate wilderness inventory for the State of Utah. In a 1999 document, the BLM reported that it had reconsidered the Central Cedar Mountain Unit and determined that it previously missed over 15,000 acres that qualified as wilderness there.

Unfortunately, Secretary Norton has since reversed 20 years of BLM practice and precluded the agency from inventorying and protecting these sorts of lands in resource management plans. As a result, the BLM has not conducted accurate inventories for the North and South Cedar Mountain Wilderness Units.

The Utah Wilderness Coalition has proposed that approximately 110,000 acres of the Cedar Mountains be protected as wilderness as part of America's Red Rock Wilderness Act. This is in the North, the Central and the Southern Units.

Having briefly discussed the landscapes involved, I would like to raise our concerns with specific language in H.R. 2909. There is no map depicting the areas to be designated as wilderness in the Cedar Mountains, and we believe that it is premature to conduct a hearing when there is no means by which to measure the benefit or potential harm conveyed by the legislation. Nor is there proposed report language, although the legislation contains ambiguous language regarding construction activities inside the wilderness and wilderness study areas.

Section 3(d) of the legislation allows the installation of new and continuation of existing communication sites in wilderness des-

ignated by the Act and existing wilderness study areas. This provision raises several problems. First, the construction and presence of such sites, including maintenance by helicopter, is inconsistent with the Wilderness Act and will diminish wilderness values. Second, the Act allows new sites to be constructed inside wilderness study areas. This is unprecedented language which dictates specific management of WSAs differently from that set out by Congress in the 1976 Federal Land Policy Management Act.

Third, the language is ambiguous, and we are concerned that it could allow a creeping increase of sites in the wilderness. And finally, the Secretary of the Air Force is given consultation authority over decisions made regarding covered wilderness that it does not have over general public lands.

In conclusion, we urge you to oppose this legislation unless these basic questions are addressed, and the West Desert Wilderness is given adequate protection. I would like to say that we do appreciate the discussions we have had with Mr. Bishop's office, and we are willing to work with Mr. Bishop to address the concerns we have raised. And it is our hope that such efforts will be fruitful. But we will vigorously oppose the bill if it fails to address our concerns.

We understand that H.R. 2909 would designate wilderness, at least in part, to prevent development of a transportation corridor necessary for a proposed nuclear waste storage site. We fully share the concern over the public safety issues raised by the proposed nuclear waste site. However, we urge the Utah delegation to pursue similar legislation that would effectively block this waste from coming into our state without the potential controversy raised by H.R. 2909.

Thank you for the opportunity to speak and for your attention to our concerns.

[The prepared statement of Mr. Groene follows:]

**Statement of Scott Groene, Staff Attorney,  
Southern Utah Wilderness Alliance, on H.R. 2909**

My name is Scott Groene and I am a staff attorney with the Southern Utah Wilderness Alliance. I speak today also on behalf of the Campaign for America's Wilderness, the Natural Resources Defense Council, and The Wilderness Society.

In summary, we have serious concerns with H.R. 2909. There has been inadequate information provided to determine the effect of this legislation on public land. We are also concerned with the adverse effect the existing bill would have on designated wilderness and Wilderness Study Areas (WSAs).

H.R. 2909 covers hundreds of thousands of acres of Bureau of Land Management (BLM) land that qualify as wilderness in Utah's basin and range country known as the West Desert. The legislation is far reaching, as it would affect this wilderness, military use of the West Desert, and a potential rail line for transporting nuclear waste into Utah.

*The Affected Landscape:*

The WSAs: The legislation would directly affect at least nine existing Wilderness Study Areas, including the Deep Creek, Fish Springs, Swasey Mountain, Howell Peak, Notch Peak, King Top, Wah Wah Mountain and Conger Mountain WSAs. These WSAs cover only a fraction of the West Desert that qualifies as wilderness.

The West Desert is roughly located between the Great Salt Lake and Nevada, and is characterized by rugged mountain ranges alternating with broad valley floors. About 20 million years ago the opposite motion of enormous plates of the earth's crust began forming this landscape. Land east of California's San Andreas Fault, where the plates meet, has since been stretched, creased and wrenched into shape like so much soft clay, forming the Sierra Nevada and the hundreds of ranges east

to Utah's Wasatch Mountains. Throughout the Great Basin, massive walls of rock rise abruptly, lifted at an angle approaching 60 degrees. The landscape is young geologically, and in the profound silence of the desert one may easily imagine that these mountains are still growing, which is precisely the case.

Rising from the desert floor at an elevation of 4,800 feet to peaks over 12,000 feet high, the Deep Creek Mountains are among Utah's most spectacular. For all their ruggedness, the Deeps also contain verdant alpine meadows and forested canyons that are an unexpected delight to desert travelers. The enormous vertical relief—greater than that of the Teton Range from Jackson Hole—creates a variety of ecological conditions that foster biological diversity unmatched in Utah's desert mountains. Eight perennial streams flow from the rough-hewn canyons, allowing deer, elk, bighorn sheep, cougar, bobcat, coyote and other wildlife to flourish. Due to their isolation from other similar environments, the Deeps also support a dozen plant and animal species found nowhere else.

The Fish Springs Range rises like an enormous dorsal fin out of the flat desert. Steep, dry, craggy and remote, bisected by rugged canyons, the range offers solitude just a short distance from good roads.

At over 9,600 feet, Swasey Mountain is the highest peak in the House Range and a prominent West Desert landmark. This wilderness includes limestone caves as well as a nationally significant fossil collecting site.

The enormous western face of Notch Peak is the desert equivalent of Yosemite's El Capitan. Notch Peak rises vertically almost 4,450 feet and is one of the highest cliffs in North America. Striking bands of gray and white limestone decorate the sheer rock face, and twisting canyons give it dimension.

The King Top WSA of the Confusion Range contains unique Ordovician fossils, which have special scientific and educational value. King Top Mountain, with an elevation between 5,000 and 8,000 feet, supports wild horses and antelope and is well-used during autumn by deer hunters. Much of the area is a high plateau, rugged and serene, remote from human intrusion.

Crystal Mountain at the northern end of the proposed Wah Wah WSA stands out against the gray limestone, as a pure white remnant of volcanoes that preceded basin-and-range faulting in this region.

The Conger Ranges is an odd jumble of hills, mountains and rugged cliffs that culminate in the 8,000-foot summit of Conger Mountain. Creased ridgelines leading to a forested peak mark the view of Conger Mountain from the west, while the eastern side is sheer and rocky; more than a dozen canyons slice into the area.

These WSAs include more than geologic splendor. Two tree lines, an upper and lower, define three life zones in the higher mountains of the Basin and Range. Above tree line in the Deep Creek Mountains, for instance, flowered meadows sprawl among the granitic peaks and glacial cirques. On the limestone soils of high ridges in the Wah Wah Mountains, House Range, and Deep Creek Mountains grow bristlecone pine trees, gnarled and tenacious, among the earth's oldest living things. In sheltered slopes and valleys are clusters of spruce, subalpine and Douglas fir, limber pine, and aspen.

At lower elevations, where available moisture diminishes, is a broad belt of pinyon pine and juniper woodlands, interspersed with patches of wiry mountain mahogany and sagebrush. Below this woodland are hills covered with sage, grasses and shadscale. Saltbush and greasewood dominate the benchlands, though in places spring-watered marshlands contrast with the arid surroundings. Finally, there is the enormous solitude of wide salt flats, their white alkali crusts and brackish water seeming to lead downhill only because of the earth's curvature.

Each of the mountain ranges in Utah's Basin and Range Province is an isolated ecosystem, a biological island surrounded by desert playas, where many unique species have evolved or survive as relics after separation from a larger historic range. Several of these montane islands have been the subject of ecological studies.

Six of the WSAs in the West Desert encompass habitat for the peregrine falcon. Eagles and many other uncommon birds also winter there. Trout Creek and Birch Creek in the Deep Creek Mountains support the rare Bonneville cutthroat trout. Both bighorn and antelope are native to the Basin and Range country.

Several rich and well-documented habitation sites in Utah's West Desert indicate human occupation by Desert Archaic and Fremont Indian cultures in the region for at least 10,000 years. The most important cultural sites are caves and rock shelters. Major cultural sites have been identified in the Deep Creek, Fish Springs, and near Granite Peak, but all of the ranges within the Utah Wilderness Coalition's proposal have been only lightly inventoried, and it is probable that important finds await discovery. Other known archeological sites remain unpublicized to protect them from vandalism.

The Cedar Mountain Wilderness: It is uncertain how much of the Cedar Mountain Wilderness, that is proposed for wilderness designation by the Utah Wilderness Coalition as outlined in America's Redrock Wilderness Act (H.R. 1796), would be protected under H.R. 2909, as no map has been provided. The Coalition's proposal would protect approximately 110,000 acres of the Cedar Mountains in three units (North Cedar Mountains: 14,718 acres; Central Cedar Mountains: 66,186 acres; South Cedar Mountains: 28,338 acres).

In the late 1970's, the BLM performed a wilderness inventory of the central unit of this range and identified roughly 50,000 acres that was designated as the Cedar Mountain WSA. The agency subsequently acknowledged that this inventory was flawed and inadequate and set about to conduct a comprehensive wilderness inventory for the State of Utah. In a 1999 document, the BLM reported that it had reconsidered the Central Cedar Mountain Unit and determined that it had previously missed over 15,000 acres that qualified as wilderness here, bringing the unit size to approximately 66,000 acres. In other words, on re-inventory, the BLM largely agreed with the Utah Wilderness Coalition's central unit boundaries. Secretary Norton has since precluded the agency from conducting further wilderness inventories and protecting these lands in Resource Management Plans. Unfortunately, that means that the BLM has not conducted adequate inventories for the North and South Cedar Mountain wilderness units.

The Cedar Mountain wilderness units lie on the eastern edge of the Great Salt Lake Desert and are situated just south of I-80, roughly a one hour drive west of Salt Lake City. These wilderness units display classic Basin and Range topography, are oriented in a north-south direction, with elevations ranging from 4,400 feet to over 7,700 feet at its mountain summits and ridgelines. Deep canyons, running east and west from the ridgelines are peppered with pinon pine and juniper forests. Mixed mountain brush communities dominate the north-facing slopes, while the south-facing slopes and ridge tops are dominated by sagebrush and native grasses. Rabbitbrush and greasewood are common in drainage bottoms and bench lands.

The view from this range is spectacular, including the Silver Islands, Crater Island, and the Newfoundland Mountains, which are surrounded by the expansive playa salt flats of the Great Salt Lake Desert which was once covered by the ancient inland sea of Lake Bonneville around 15,000 years ago. Distant views of numerous mountain ranges are seen in every direction and include the Grouse Creek, Pilot Range, Deep Creek Mountains, Fish Springs Range, Dugway Range, Granite Peak, Promontory Mountains, Stansbury Mountains, Wasatch Mountains, Lakeside Mountains and Grassy Mountains.

Wildlife is abundant in the Cedar Mountains. Mule deer, pronghorn antelope, coyote, bobcats, bats, an occasional mountain lion, ravens and reptiles all inhabit these units. This mountain range is also home to such raptors as the golden eagle and the red-tailed hawk.

Several archeological sites have been identified in the northern portion of the range. However, in other locations comprehensive inventories are still needed to fully understand this resource. The Utah Wilderness Coalition's proposed Cedar Mountain wilderness units provide exceptional solitude opportunities for visitors. In addition to being remote and seldom visited, vegetation and topography enhances a person's outstanding sense of isolation and seclusion. Hiking, camping, backpacking, hunting, horseback riding, scenic photography, nature study and wildlife sightseeing are a few of the outstanding primitive recreation opportunities within the Cedar Mountains.

#### *Legislative concerns:*

We have several concerns regarding the legislation.

Lack of map: There is no map depicting the areas to be designated as wilderness. It is premature to conduct a hearing when there is no means by which to measure the benefit or potential harm conveyed by the legislation.

Lack of report language. There is no proposed report language, although the legislation contains ambiguous language regarding construction activities inside wilderness and other matters.

New communications facilities allowed in wilderness. Sec. 3(d) allows the installation of new, and continuation of existing, communication sites in wilderness designated by the Act and existing wilderness study areas. This provision raises several problems:

a. Conflict with wilderness: The construction and presence of such sites, including maintenance by helicopter, is inconsistent with the Wilderness Act and will diminish wilderness values, especially if located on peaks.

b. Unprecedented WSA management language: The Act provides that new sites can be constructed inside Wilderness Study Areas. This is unprecedented language

that dictates the specific management of WSAs differently from that set out by Congress in FLPMA.

c. Uncertain need for exceptions, and breadth of exceptions: the Act provides that the Secretary of Interior can allow new sites when these collectively will create a "similar impact" that does not expand the "size or significantly expand the numbers of such systems," and does not require construction of a road. This language could allow a creeping increase of sites.

The vagueness of the 3(d) language suggests the exceptions may not be necessary or could be narrowed by determining in the report language whether: there are existing systems within the "covered wilderness," the locations of those systems, and whether there is a need to continue these systems. Further, it should be determined whether there is a need for any new systems in the region and, if so, the locations of these systems.

The exceptions could also be narrowed by limiting the frequency in which maintenance could occur.

d. Military given more authority inside wilderness than out: The Secretary of the Air Force is given consultation authority over decisions made regarding covered wilderness. The military does not have this authority over general public lands, and should not be granted this authority over designated wilderness.

*Conclusion:*

We urge you to oppose this legislation unless these basic questions are addressed and the West Desert wilderness is given adequate protection.

We are willing to work with Mr. Bishop to address the concerns we have raised, and it is our hope that such efforts will be fruitful. But we will vigorously oppose the bill if it fails to adequately address our concerns.

At the same time, we wish to underscore our ongoing concern with the potential public safety hazard that would be created by an above-ground nuclear waste storage site near the urban core of Utah's population. We understand that one motivation behind the designation of wilderness in the legislation under consideration today is to prevent the development of the nuclear waste transportation corridor necessary for the proposed storage site. While we fully share the concern of this legislation's chief sponsor with the public safety issues raised by the creation of the proposed nuclear waste storage site, we urge the Utah Delegation to pursue simpler legislation that would effectively block nuclear waste without creating other concerns for the conservation community. We would also urge a consideration of how to compensate the Goshute Nation for lost economic opportunities if the nuclear waste site is blocked.

Thank you for the opportunity to speak on this legislation and your consideration of our comments.

---

Mr. RADANOVICH. Thank you very much, Mr. Groene. I appreciate it.

Mr. Leon Bear, welcome to the Subcommittee. You may begin your testimony.

**STATEMENT OF LEON D. BEAR, CHAIRMAN, SKULL VALLEY  
BAND OF GOSHUTE INDIANS, SALT LAKE CITY, UTAH**

Mr. BEAR. Good afternoon. My name is Leon Bear. I am the Chief of the Squaw Valley Band of Goshute Indians and Chairman of the Squaw Valley Executive Committee.

At this time, my testimony today is a summary of the written testimony that I have already submitted. I appreciate your invitation to testify before the Subcommittee on H.R. 2909. Whatever the intent, purposes of this legislation, I must advise you that several provisions in this bill, as introduced, would deny access to the Squaw Valley Indian Reservation, which was created pursuant to an 1863 treaty with the United States.

As explained by this testimony, this bill is but the latest in a series of efforts by Utah political leaders, led by Governor Mike Leavitt, to deny Goshute treaty rights. The UTTR is superimposed across millions of acres of Goshute aboriginal territory, as de-

scribed in the 1863 treaty. The treaty recognizes this area as Goshute homeland. In return for my ancestors' permission for the cavalry, wagon trains, railroad or Pony Express to cross over these lands, the treaty did not relinquish Goshute title or use of this tribal homeland.

At one point in time, the Goshutes had 20,000 members, but with the encroachment of non-Indians, today, our numbers are down to 500.

In the recent years, the Utah West Desert has become home to all forms of toxic waste disposal, both military and commercial. There is currently no significant commercial development on the reservation. Most of our people have been forced to move away to seek employment. In 1996, we entered into a lease agreement to agree to lease 820 acres of tribal land with a consortium of utilities known as Private Fuel Storage to store the spent fuel rods from commercial nuclear reactors.

The State of Utah has opposed this license application by intervening in this process, which the State is entitled to do. And now, we have H.R. 2909. To Congressman Bishop's credit and unlike his predecessors, he has been willing to meet with the leadership of the band and to include us in discussions of this legislation.

Section 4(b) expressly prohibits the Secretary of the Interior from issuing any rights-of-way across lands surrounding the reservation until the latter of the following: the completion of a full revision of the Pony Express Area Resource Management Plan; 2) January 1, 2015, thus, for a minimum of 11 years and perhaps indefinitely, there can be no new industrial or transportation corridors to the reservation.

The only current access to the reservation is the Squaw Valley Road, and the Governor and Legislature have been trying to gain control over that road, as to build a moat around the reservation. But nothing can justify cutting off access to the Squaw Valley Reservation, which was created pursuant to the treaty with the United States. The Goshute presence in the desert is as inconvenient now to the American people as it was in the 19th Century. If this bill, in its current form, receives favorable action from this Committee, then, I am afraid the answer is yes. This Congress will demonstrate that it has no reluctance to abrogate our treaty rights and treat our land as an uninhabitable wasteland.

If tribal self-determination means anything, the Goshute people should be allowed to make their own decisions about economic development on their reservation land. If access to the reservation is denied by legislation such as H.R. 2909, they will never have that opportunity.

I would like to turn the rest of my time over to Tim Vollman, our tribal attorney.

Mr. VOLLMAN. Thank you.

Congressman Bishop raised an issue with the Air Force witness about unrestricted access for UTTR. I would like to point out that the final environmental impact statement on the spent nuclear fuel storage facility on the Skull Valley Reservation, dated December 2001, states: the Air Force agrees that an accident is unlikely and has asked that the FEIS state that there is no foreseeable reason

why the facility owners or the NRC should ever require or seek any changes in the operation of the UTTR.

The statement's response to that is that no overflight restrictions are being contemplated to accommodate the proposed Private Fuel Storage facility. The issue of the safety of this facility is now, as pointed out by a number of witnesses, the subject of proceedings before the Nuclear Regulatory Commission, and the issue of the consequences of a crash and the safety of overflights will be the subject of a hearing before the Atomic Safety and Licensing Board, previously scheduled for this December, now postponed but likely to be early next year.

I submit that, on behalf of the band, that this bill, to the extent that it tries to address these issues, is premature for the additional reason that we need to see what the Nuclear Regulatory Commission will decide regarding these safety issues and that if it certifies this facility as safe with respect to the overflights by F-16s out of Hill Air Force Base that the provisions of this bill will be unnecessary.

[The prepared statement of Mr. Bear follows:]

**Statement of Leon D. Bear, Chairman,  
Skull Valley Band of Goshute Indians, on H.R. 2909**

I am Leon Bear, Chairman of the Skull Valley Band of Goshute Indians, who reside in the West Desert of Utah. I appreciate the Chairman's invitation to testify before the Subcommittee on H.R. 2909. Whatever the intended purpose of this legislation, I must advise you that several provisions in the bill, as introduced, would deny access to the Skull Valley Indian Reservation, which was created pursuant to an 1863 Treaty with the United States. As explained by this testimony, this bill is but the latest in a series of efforts by Utah political leaders, led by Governor Mike Leavitt, to deny Goshute treaty rights.

H.R. 2909 purports to be designed to ensure the continued availability of the Utah Test and Training Range (UTTR) to support the readiness and training needs of the Armed Forces. The UTTR, as described in this bill, includes the Skull Valley Indian Reservation within its boundaries. But never mind. My family and I live on the Reservation, and almost daily, for many years, we have heard F-16s roar across the valley floor, often only a few hundred feet above our village.

The UTTR is superimposed across millions of acres of Goshute aboriginal territory, as described in the 1863 Treaty. The Treaty recognized this area as the Goshute homeland, in return for my ancestors' permission for the cavalry, wagon trains, railroad and pony express to cross over these lands. The Treaty did not relinquish Goshute title or use of this tribal homeland. Our leaders merely conveyed critical access to facilitate the westward continental migration of the people colonizing Indian Country. Now, without our consent, the non-Indian leaders of Utah continue to attempt to deny the Skull Valley Goshute people access to their own Reservation.

But this is nothing new to the Goshute people.

Notwithstanding the limited language of the 1863 Treaty, settlers, miners, missionaries and the military immediately encroached on Indian hunting and gathering grounds, pushing the Goshute people aside. By the early 20th century, their numbers had dwindled to a few hundred people. The Treaty authorized the President to set aside Reservations for our protection, but it was not until 1917 that President Woodrow Wilson proclaimed a reservation for the Skull Valley Band. Subsequent executive orders and statutes have identified a total of only 18,000 acres of desert at the foot of the Stansbury Mountains for our Reservation.

Then came World War II and the Cold War. The military presence in the West Desert expanded to include, not just Air Force training, but the manufacture and testing of chemical, biological and nuclear weapons. To the south of the Reservation lies Dugway Proving Grounds; to the east: Tooele Chemical Depot; to the west and north: the UTTR.

Looking for weapons of mass destruction? You need look no further than Goshute territory. In the 1960s chemical weapons testing killed several thousand sheep which were secretly buried on the Skull Valley Indian Reservation. After their dis-

covery years later, the Tribe entered into a Cooperative Agreement with the Department of Defense to remove the contaminated carcasses.

In recent years the Utah West Desert has become home to all forms of toxic waste disposal, both military and commercial. Indeed, Tooele County zoned the area surrounding the Skull Valley Reservation for toxic waste dumping. Little wonder that the Reservation has not been viewed as a prime area for economic development. Also, we have been isolated. The Reservation lies 25 lonely miles down Skull Valley Road south from Interstate 80. We are a 70-mile drive from the Salt Lake City Airport, on the west side of the Stansbury Mountains and the Deseret Peak Wilderness Area. There is currently no significant commercial development on the Reservation. Most of our people have been forced to move away to seek employment.

In the 1980s the Department of Energy began offering grants to Indian tribes and other communities to explore the possibility of storing nuclear waste. The Skull Valley Band received two such grants from DOE, and we learned a lot about this subject. We learned the difference between uranium, plutonium and transuranic waste. We learned about enrichment of uranium, long before North Korea and Iran brought this issue to American headlines. We learned about this country's dependence upon nuclear energy, and learned about the spent nuclear fuel rods from commercial nuclear reactors, which are stored in pools of water, on the Hudson River, not far from Manhattan Island; and on the Chesapeake Bay, not far from this hearing room. We learned about dry cask storage of these spent rods. We learned about the future technological potential for extracting valuable energy from this source.

So, fully informed, in 1996 we entered into a lease of 820 acres of tribal land with a consortium of utilities (PFS) to store the spent fuel rods from commercial nuclear reactors. Construction and operation of the storage facility was dependent upon the issuance of a license by the Nuclear Regulatory Commission. The licensing proceedings have been ongoing since 1997, and we are hoping that they will conclude with the issuance of a license early next year. The State of Utah has opposed the license by intervening in this proceeding. This the State was entitled to do.

However, the opposition did not stop there. Governor Leavitt whipped the Utah electorate into a hysterical anti-nuclear frenzy. In 1999 he announced that he would build a "moat" around the Skull Valley Reservation. He was successful in the State Legislature over several years, obtaining laws which purported to give him control over Skull Valley Road, regulatory authority over the Reservation (and all Indian Reservations in Utah), and prohibiting the transportation and storage of high-level nuclear waste "within the boundaries of the State," including Indian Reservations. In 2001, we joined with PFS to sue the Governor seeking to invalidate these laws as unconstitutional. We were successful. In July 2002, the U.S. District Court in Salt Lake City ruled in our favor, declaring these laws unconstitutional, specifically including the effort to build a moat around the Reservation. *Skull Valley Band v. Leavitt*, 215 F.Supp.2d 1232, 1248, note 10 (D. Utah 2002). The State's appeal is pending.

Meanwhile, the former Chairman of this Committee, Congressman Hansen, snuck a provision into the Defense Authorization bill last year, which would have cut off access to the Reservation by requiring that no land management planning could be conducted by the Secretary of the Interior without the concurrence of the "Commander in Chief of the Armed Forces of the State of Utah," namely the Governor. This would have prevented any rights-of-way across either of the two Goshute Reservations in western Utah, in effect making the Goshutes the peons of the State of Utah. Fortunately, this provision was not included in the legislation which was enacted.

Earlier this year, we discovered, based on a review of state public records, that Governor Leavitt has been funding attorneys representing Goshute dissidents since 1997, including financing the creation of so-called Ohngo Gaudadeh Devia (OGD), which has been litigating with the Band and the Department of the Interior with numerous administrative appeals and lawsuits, none of which have been successful. Indeed, we found that the State has paid at least three sets of these attorneys \$500,000 to keep up this effort in a blatant attempt to destabilize the tribal government, including the freezing of tribal bank accounts.

Now we have H.R. 2909. To Congressman Bishop's credit, and unlike his predecessor, he has been willing to meet with the leadership of the Band, and to include us in discussions of this legislation. But, as introduced, it contains many of the same odious provisions which appeared in the Hansen amendment to the Defense Authorization bill in the last Congress.

Section 4(b) expressly prohibits the Secretary of the Interior from issuing any rights-of-way across the Federal lands surrounding the Reservation "until the later of the following: (1) The completion of a full revision of the Pony Express Area Resource Management Plan. ... (2) January 1, 2015." Thus, for a minimum of eleven



years, and perhaps indefinitely, there can be no new industrial or transportation corridors to the Reservation. The only current access to the Reservation is Skull Valley Road, and the Governor and Legislature have been trying to gain control over that road so as to build a "moat" around the Reservation.

Section 5 of H.R. 2909 would create the Cedar Mountain Wilderness Area, which, according to a draft map the Congressman sent to us, would include Federal lands adjacent to Interstate 80 to be crossed by a proposed rail line to the Skull Valley Reservation. The Department of the Interior has already determined that those lands are not even appropriate for designation as a Wilderness Study Area (WSA) under the Federal Land Management and Policy Act, much less for Congressional designation as wilderness. The inclusion of these lands in the wilderness proposal clearly appears to be an effort to prevent the Skull Valley Band from obtaining this rail line.

This is done under the justification of military readiness. We are not opposed to the continuation of military flights over Skull Valley, and share military readiness concerns, and we are willing to work with Congressman Bishop on the language of his bill, as long as all provisions which block access to the Reservation are deleted. We believe we have a good relationship with the Air Force, and just last week I met with the new Brigadier General at Hill Air Force Base, who agreed to cooperate with the Band. We understand that the Air Force has taken no position on the construction of the PFS facility on the Reservation. We expect the NRC licensing process to certify that the project is safe. Any suggestion that the agency has already denied a license on that basis is false. The evidentiary process continues, and a hearing is scheduled for this December.

But nothing can justify cutting off access to the Skull Valley Reservation, which was created pursuant to a Treaty with the United States. Is the Goshute presence in the desert just as inconvenient now to the American people, as it was in the 19th century? If this bill, in its current form, receives favorable action from this Committee, then I am afraid the answer is Yes. This Congress will demonstrate that it has no reluctance to abrogate our treaty rights, and treat our lands as an uninhabited wasteland.

If tribal self-determination means anything, the Goshute people should be allowed to make their own decisions about economic development on their Reservation lands. If access to the Reservation is denied, by legislation such as H.R. 2909, they will never have that opportunity.

---

Mr. RADANOVICH. Thank you, sir. Would you please state your name and occupation for the record, if you would?

Mr. VOLLMAN. I apologize. My name is Tim Vollman. I am an attorney out of Albuquerque, New Mexico, and I represent the Skull Valley Band, and I have provided the Committee with a disclosure statement in compliance with your rules. You have that information.

Mr. RADANOVICH. Thank you very much, sir, I appreciate your testimony and that of Mr. Bear as well.

Mr. BEAR. Thank you. May I point out one other thing relative to the testimony?

Mr. RADANOVICH. I am afraid you are out of time. So we will hope to get it up during the question and answer.

Thank you very much.

Next is Mr. Anthony Portantino, who is a member of the Santa Monica Conservancy Advisory Committee from La Canada and Flintridge in California.

Mr. Portantino, welcome to the Subcommittee, and you may begin your testimony.

**STATEMENT OF HON. ANTHONY PORTANTINO, MEMBER,  
SANTA MONICA MOUNTAINS CONSERVANCY ADVISORY  
COMMITTEE**

Mr. PORTANTINO. Thank you, sir.

Mr. Chairman, honorable Members of Congress, my name is Anthony Portantino, and I am a Councilmember and the former Mayor of the City of La Canada-Flintridge, a city with a long history of respecting private property rights.

Today, I am speaking on behalf of the Santa Monica Mountains Conservancy, of which I am an Advisory Committee member, in support of H.R. 704, the Rim of the Valley Trail Corridor Study Act. The Santa Monica Mountains Conservancy is the principal agency of the State of California charged with the protection of open space and natural resources for almost three-quarters of a million acres surrounding the Los Angeles Metropolitan Area.

Since 1983, the Santa Monica Mountains Conservancy has had the responsibility of acquiring park and open space land, building trails and providing other public access improvements within the Rim of the Valley corridor. The importance of the Rim of the Valley corridor is twofold: the striking natural scenery and open space that still encircles the Greater Los Angeles area and the proximity of those natural resources to the 10 million residents of Los Angeles and Ventura Counties.

In 1978, Congress established the Santa Monica Mountains National Recreation Area, acknowledging that it was a special area, almost unique in the Park System, in that the National Recreation Area would be administered cooperatively with the state, regional and local governments. That model has worked splendidly. There is now a seamless web of park land extending from the beaches of Malibu to the heights of Simi Peak, from the heart of downtown Los Angeles 50 miles west to Mugu Lagoon, which is one of the last of California's unspoiled coastal wetlands.

Although the Santa Monica Mountains NRA is far from complete, the outlines of its success are apparent. The Federal Government has provided both the material and intellectual resources that have coalesced and stimulated much wider movement for the protection of the area and making it accessible for public recreation opportunities. The original authorization for the SMMNRA was \$155 million, but to date, the Santa Monica Mountains Conservancy and California has almost tripled that, and the California State Parks Department has spent another \$60 million or so and intends to spend more.

There is every indication that including the Rim of the Valley Corridor within the Santa Monica Mountains National Recreation Area will have the same positive effect upon the protection of the ecological communities and the well-being of the human communities in northern Los Angeles and Ventura Counties. However, this bill does not presuppose an outcome. It merely directs a study, and a cooperative study at that. The National Park Service model has worked well for the Santa Monica Mountains proper and can be readily adapted for most of the Rim of the Valley Corridor.

In the eastern rim of the valley, there may be institutional arrangements that recognize the vital role played by the Angeles National Forest, America's most visited National Forest, in protecting the San Gabriel Mountains, making them accessible for recreational purposes. By requiring a joint study by both the Secretary of the Interior and the Secretary of Agriculture, this bill makes it probable that what will emerge from the study is a meth-

od of protecting and enhancing this special area that will use the best resources of the National Park Service and U.S. Forest Service.

Let me emphasize why H.R. 704 is so urgent. The satellite photos show a wreath of green, representing the Rim of the Valley Corridor. Land use decisions pending within the next few years can change all of that forever. Decisions will be made in that timeframe by major landowners whether or not to engage in park partnerships, and many times, sale for park and recreational purposes is a preferred choice for local property owners, or whether to commit the land to residential and commercial development.

Local government and planning decisions need to be informed about whether their Federal Government is willing to protect this area. The introduction of similar measures in both Houses of Congress stimulated a rush of local interest and support. There is a lot of good will resting on the swift completion of this study. The Conservancy stands ready to commit up to \$100,000 to fund this cost. On a personal note, this past Saturday, my city dedicated a trail-head access point that connects a residential neighborhood to the Angeles Crest National Forest. This property, our last and most vital resource, was dedicated because we did not identify it two decades ago.

Although we worked collaboratively with property owners, the final cost to the taxpayers was three times what it should have been. This Saturday, Congressional representatives from David Dreier's office, our Congressman, was there, and it exemplified how important it is to work with a vision toward the future.

Ninety years ago, U.S. Senator Frank Flint worked with Teddy Roosevelt to develop our neighborhood. We are looking for Congress today to help us plan for our future. There is no community with a greater respect for private property rights than ours, and we are looking for help and working with Congressman Adam Schiff and being a stakeholder and working toward the future.

Thank you very much.

[The prepared statement of Mr. Portantino follows:]

**Statement of The Honorable Anthony J. Portantino, Council Member, City of La Canada Flintridge, Member, Santa Monica Mountains Conservancy Advisory Committee, on H.R. 704**

Mr. Chairman and Honorable Members of Congress, my name is Anthony Portantino, I am a council member and former mayor of the City of La Canada Flintridge, and a member of the Santa Monica Mountains Conservancy Advisory Committee; I am representing the Conservancy here today in support of H.R. 704, the Rim of the Valley Corridor Study Act.

The Santa Monica Mountains Conservancy is the principal agency of the State of California charged with protection of open space and the natural resources of almost three quarters of a million acres surrounding the Los Angeles Metropolitan Area. Since 1983, the Mountains Conservancy has had the responsibility acquiring park and open space land, building trails, and providing for other public access improvements within the Rim of the Valley Corridor.

Successive state legislative amendments have expanded the territory of the Rim of the Valley Corridor so that it now encompasses a major portion of the Santa Monica Mountains, the Santa Susana Mountains, Simi Hills, Verdugo Mountains, San Rafael Hills, and the portion of the San Gabriel Mountains within the upper Los Angeles River watershed. This was done in recognition of the essential ecological unity of the mountains system in southern California and the artificiality of limiting protection to only a portion of it.

The importance of the Rim of the Valley Corridor is twofold: The striking natural scenery and open space that still encircles the greater Los Angeles area, and the proximity of those natural resources to the ten million residents of Los Angeles and Ventura Counties.

In 1978 Congress established the Santa Monica Mountains National Recreation Area, acknowledging that it was a special area, almost unique in the park system, in that the National Recreation Area would be administered cooperatively with the state, regional, and local governments. That model has worked splendidly. There is now a seamless web of parkland extending from the beaches of Malibu to the height of Simi Peak, from the heart of downtown Los Angeles fifty miles west to Mugu Lagoon which is one of the last of California's unspoiled coastal wetlands. Although the Santa Monica Mountains NRA is far from complete, the outlines of its success are apparent. The Federal government has provided both material and intellectual resources that have coalesced and stimulated a much wider movement for the protection of the area and making it accessible for public recreation opportunities. The original authorization for the SMMNRA was \$155,000,000, but to date the Santa Monica Mountains Conservancy of the State of California has almost tripled that, and the California State Parks Department has spent another \$60,000,000 or so, and intends to spend more.

There is every indication that including the Rim of the Valley Corridor within the Santa Monica Mountains National Recreation Area will have the same positive effect upon the protection of ecological communities and the well-being of human communities in northern Los Angeles and eastern Ventura counties. However, this bill does not presuppose an outcome, it merely directs a study. And a cooperative one at that. The National Park Service model has worked well for the Santa Monica Mountains proper, and can be readily adapted for most of the Rim of the Valley Corridor. In the eastern Rim of the Valley there may be institutional arrangements that recognize the vital role played by the Angeles National Forest—America's most visited National Forest—in protecting the San Gabriel Mountains and making them accessible for recreation purposes. By requiring a joint study by both the Secretary of the Interior and the Secretary of Agriculture, this bill makes it probable that what will emerge from the study is a method of protecting and enhancing this special area that will use the best resources of the National Park Service and the U.S. Forest Service.

Although the Administration expressed concern about the number of park studies being undertaken, it did not oppose the identical bill that passed the Senate earlier this year.

Let me emphasize why H.R. 704 is so urgent. While the satellite photos of southern California still show the wreath of green represented by the Rim of the Valley Corridor, land-use decisions pending within the next few years can change all of that forever. Decisions will be made in that time frame by major landowners whether or not to engage in park partnerships—and many times sale for park and recreation purposes is a preferred choice for local property owners—or whether to commit the land to residential and commercial development. Local government planning and zoning decisions need to be informed by whether there will be a Federal initiative to protect this area. The introduction of similar measures in both houses of Congress last year stimulated a rush of local interest and support. There is a lot of good will resting on the swift completion of the study.

The Santa Monica Mountains Conservancy stands ready to help in any way we can. Our data bases, planning studies, and personnel will all be made available. Even more significantly, the Conservancy is prepared to match the federal government dollar for dollar (up to \$100,000) to help fund the cost of this study.

On a personal note—this past Saturday, my city, La Canada Flintridge, dedicated a trailhead access point that connects a residential neighborhood with the Angeles Crest National Forest and the Rim of the Valley Trail. This property, our last and most vital trailhead, was threatened by development because my City did not spend the time and resources two decades ago to identify its importance.

Although we worked collaboratively with the property owner, the final cost to taxpayers was three times what it should have been had we shown the foresight that Congress is now so laudably contemplating to enact. We have since rectified our lack of vision by establishing a Trails Resources and Protection Committee that is planning for the preservation and acquisition of open space for the next two decades much like you are considering doing today.

Our success on Saturday, attended by Congressional Representatives and State Legislators, exemplifies how important it is to work with a vision toward the future. As the population of Los Angeles County continues to dramatically increase, it is so much better to plan in advance of that growth and its demands than to react to it.

Mr. Chairman, this concludes my statement and I would be happy to address any questions the Committee may have.

---

Mr. RADANOVICH. Thank you very much for your testimony, Mr. Portantino.

Next is Mr. Mike Hardiman, who is Legislative Director for the American Land Rights Association here in Washington.

Mr. Hardiman, you may begin your testimony.

**STATEMENT OF MIKE HARDIMAN, LEGISLATIVE DIRECTOR,  
AMERICAN LAND RIGHTS ASSOCIATION, WASHINGTON, D.C.**

Mr. HARDIMAN. Thank you, Mr. Chairman. The American Land Rights Association was founded in 1977 by private property holders in California. It now has membership in all 50 states concerned with both private property rights and public lands multiple use and access. I have been a land holder in Imperial County since 1990. I have submitted letters from 34 Los Angeles area residents, including property owners and recreational users in and near the proposed study region. All of these very strongly oppose H.R. 704.

Mr. Chairman, there is a remarkable difference between the claims made by supporters of this bill versus the reality of National Park Service actions in this and other nearby park units under the same regional management. Recreation: H.R. 704's sponsor, Congressman Adam Schiff, who is here today, said Los Angeles has, quote, one of the lowest ratios of park and recreation lands per thousand population of any area in the country.

However, a Park Service regional takeover under H.R. 704 will most likely reduce recreational access. John Williams from San Bernardino, a former Park Service employee, writes to the Committee, quote: I am currently finishing a historic interpretive sign project on the old ridge route, the original highway that ran from Bakersfield to Los Angeles. Williams predicts that, quote, the Park Service's excuse for shutting down this access route will be that it does not meet Federal highway standards and is a liability risk. This is what the Park Service did here in 1991, when he was employed by the Park Service, when they took over an old Boy Scout camp, shut down a road open since 1932, thus eliminating public access to that part of the recreation area.

Ed Waldheim from Glendale, President of the California Off-Road Vehicle Association, writes that the National Park Service is anti-access and should not have an expanded role in Southern California, in particular considering its lack of maintenance of existing facilities.

Mr. Chairman, the term recreation does not even appear in the bill as a need for the purpose of H.R. 704. Dealings with property owners: Pat Tiller of the National Park Service testified on March 20, 2003, that the Santa Monica National Recreation Area has become a model of collaboration with many private property owners. Former Santa Monica Mountains resident Donald Scott may disagree. The reason I say former is because Donald Scott is dead. After Scott refused to sell his land to the Park Service, the NPS trumped up marijuana growing charges against him, led a raid on his home in October of 1992. Scott was shot and killed by a Los

Angeles County Sheriff who had joined the Park Service on the raid.

Eight years later, in 2000, the Park Service and the Sheriff's Department jointly reached a multimillion-dollar wrongful death settlement with Scott's widow, Frances. No drugs were ever found; no charges were ever made against the Scotts. Unfortunately, this disgraceful episode is not unique. On one of the Channel Islands, just off the coast of Los Angeles, the Graney family was running a successful recreation business of just the type that NPS claims it wants to see, including kayaking, mountain biking, hiking and bow hunting as part of a bed-and-breakfast operation.

However, the NPS wanted the entire island to themselves and saw that the Graney family, who lived on the island since 1869, were not going to leave voluntarily. So they took things into their own hands. In January of 1997, the Park Service landed two helicopters with 20 armed agents on the island. As in the Scott case, once again, trumped up charges were used to justify the raid, which included misdemeanors such as an expired work permit and operating a stove without a license.

This time, at least, no one was killed, but the Graney family's business was ruined, because tourists were, understandably, petrified to go to the island anymore.

It is only a study. Joe Edmonston of the Santa Monica Mountains Conservancy claimed in Senate testimony earlier this year that, quote, this bill does not presuppose an outcome. It merely directs a study. Well, consider this: when the Park Service began a study of the nearby Gaviota coast in Santa Barbara County in 1999, they promised openness, but that is not what happened. Here is a confidential statement written by NPS Study Director Ray Murray just after the study began, quote: we can shield sensitive info in several ways away from freedom of information requests and subpoenas. I will clarify and lay out our options. Often, we can mark documents and materials as predecisional.

Letters dating back as far as 1994 demonstrate that the Park Service was pushing for a park unit for the area many years before the study began. This study was slated for 3 years, but it is behind schedule and over budget and will take approximately 5 years to complete. This leaves property owners with a regulatory cloud over their land and with many plans on hold for all that time.

In conclusion, H.R. 704 has significant regional opposition from property owners and public access community leaders. Up to this point, they have had no idea what the Park Service and the Conservancy have had in store. Supporters should go back to the drawing board and, this time around, begin an inclusive discussion process. There is no need for this bill.

[The prepared statement of Mr. Hardiman follows:]

**Statement of Michael Hardiman, Legislative Director,  
American Land Rights Association, on H.R. 704**

The American Land Rights Association was founded in 1977 by private property inholders in California, and now has membership in all fifty states concerned with both private property rights and public lands multiple use and access. I have been an inholder in Imperial County since 1990.

I have submitted letters from thirty-four Los Angeles area residents, including property owners and recreational users in and near the proposed study region. All of these very strongly oppose H.R. 704.

Mr. Chairman, there is a remarkable difference between the claims made by supporters of this bill, versus the reality of National Park Service (NPS) actions in this and other nearby park units under the same regional management.

*Recreation:*

H.R. 704's sponsor Congressman Adam Schiff has said Los Angeles has "one of the lowest ratios of park and recreation lands per thousand population of any area in the country." However, a Park Service regional takeover under H.R. 704 will most likely reduce recreational access.

John Williams from San Bernardino, a former Park Service employee, writes to the Committee, "I am currently finishing a historic interpretive sign project on the Old Ridge Route, the original highway that ran from Bakersfield to Los Angeles." Williams predicts that "the Park Service's excuse for shutting down this Route will be that it doesn't meet federal highway standards and is a liability risk. That is what the Park Service did here in 1991 when they took over an old Boy Scout camp—shut down a road open since 1932, thus eliminating public access to that part of the recreation area."

Ed Waldheim from Glendale, President of the California Off Road Vehicle Association, writes that "The National Park Service is anti-access and should not have an expanded role in Southern California, in particular considering its lack of maintenance of existing facilities."

The term "recreation" does not even appear in the bill as a need or purpose for H.R. 704.

*Dealings with property owners:*

Pat Tiller of the Park Service testified in March 2003 that the Santa Monica National Recreation Area "has become a model of collaboration" with "many private property owners."

Former Santa Monica Mountains resident Donald Scott may disagree. The reason I say "former" is because Donald Scott is dead. After Scott refused to sell his land to the Park Service, the NPS trumped up marijuana growing charges against him, and led a raid on his home in October of 1992. Scott was shot and killed by a Los Angeles County Sheriff, who had joined the Park Service on the raid.

Eight years later, in 2000, the Park Service and the Sheriff's Department finally reached a multimillion dollar wrongful death settlement with Scott's widow, Frances. No drugs were ever found.

Unfortunately, this disgraceful episode is not unique. On one of the Channel Islands just off the coast of Los Angeles, the Gherini family was running a successful recreation business of just the type that NPS claims it wants to see, including kayaking, mountain biking, hiking and bow hunting as part of a bed-and-breakfast operation. The NPS wanted the entire place to themselves, and saw that the Gherini's, who had lived on the island since 1869, were not going to leave voluntarily. So they took things into their own hands.

In January of 1997, the Park Service landed two helicopters with twenty armed agents on the island. As in the Scott case, once again trumped up charges were used to justify the raid, which included misdemeanors such as an expired work permit and operating a stove without a license.

This time, no one was killed. But the Gherini's business was ruined because tourists were petrified to go to the island anymore.

*It's only a study:*

Joe Edmiston of the Santa Monica Mountains Conservancy claimed in Senate testimony earlier this year that "this bill does not presuppose an outcome, it merely directs a study."

Well, consider this. When the Park Service began a study of the nearby Gaviota Coast in Santa Barbara County in 1999, they promised openness, but that is not what happened. Here is a confidential statement written by NPS study director Ray Murray just after the study began:

"We can shield sensitive info in several ways from Freedom of Information Requests and subpoenas. I'll clarify and layout our options. Often we can mark documents and materials as 'Pre-Decisional'."

Letters dating back as far as 1994 demonstrated that the Park Service was pushing for a park unit for the area, many years before the study began.

This study was slated for three years, but it is behind schedule and over budget, and will take approximately five years to complete. This leaves property owners with a regulatory cloud on their land, and with many plans on hold for all that time.

In conclusion, H.R. 704 has significant regional opposition from property owners and public access community leaders. Up to this point, they have had no idea what

the NPS and the Conservancy have had in store. Supporters should go back to the drawing board and this time around, begin an inclusive discussion process.

[NOTE: Attachments to Mr. Hardiman's statement have been retained in the Committee's official files.]

Mr. RADANOVICH. Thank you very much, Mr. Hardiman. That ends the testimony of the people invited to the Committee and opens up time now for questions from members of the panel.

I am going to recognize Mr. Bishop from Utah to begin the questions.

Mr. BISHOP. Thank you. I appreciate that again, Mr. Chairman.

Mr. Johnson, I appreciate your being here and talking about the inclusion process. In the view of the states, can you think of any player that we have not tried to include in the process in coming up with this particular bill which we should have?

Mr. JOHNSON. No, I think you have been very thorough, and I congratulate you on your efforts to include everyone in those discussions. As you know as a Congressman, the Governor is in a very difficult situation, because he represents all of the stakeholders involved in these public lands issues, and so, he represents those who love wilderness, those who hate it, those who are wonderful members of the Goshute tribe who want nuclear, those who do not; those who want access; those who want no access, and you know how difficult of a balance that is.

And so, having as many players at the table as you have and trying to carve this out in an appropriate way is to speak well of your efforts.

Mr. BISHOP. I appreciate your statement of support that the State has for the Utah Test and Training Range. As a former county commissioner of a county with a great deal of public and Federal lands within the boundaries of that county, even though we do have, at the present time, a warm working relationship between the Bureau of Land Management, the Air Force and other entities who are out there in that particular area, could you see an advantage for codifying that relationship to make sure that in the future, things do not change based on personalities who may change?

Mr. JOHNSON. Yes; I think that in the 10 years that I served in public office as an elected official, I saw many changes in perspective as agency personnel changed, as elected officials changed, and sometimes interpretations of rules and law are manifested in different ways. And it is always good to have surety in the management of these things. I think that the thing that stands out in my mind in our support of this is that Utah, with over 70 percent of its land base being public lands and being such a large provider of minerals that are essential not only to the State but to the Nation as well as the military applications and all of the other kinds of things that occur and are relied upon on public lands, it would be well for the State and the citizens of the State to have something that sets a good precedent that these things can coexist and operate side-by-side.

And I think that is always a fear for, especially, local elected officials that, say, have a power plant in their county, or they have, you know, a coal mine in their county, or like the UTTR facility up there. It is always a worry that, you know, different encroaching



rules and regulations are going to create economic difficulties and problems in continuing to function with those things, and surety is a very good thing. So, yes, sir.

Mr. BISHOP. Thank you.

Mr. GROENE, I noticed in your written testimony that you said the presence of such sites, meaning communication towers and facilities, are inconsistent with the Wilderness Act. That is exactly what you mean? You are sticking with that point?

Mr. GROENE. Said that it would diminish wilderness characteristics.

Mr. BISHOP. OK; so, as we look at that map, on anything that is Wilderness Study Area, which is shaded, everything that is a triangle is a communication site. So each of those diminish and, once again, is inconsistent with the concept of wilderness.

Mr. GROENE. Well, our understanding has been that there are two sites right now inside wilderness study areas, and I am not quite sure on this, but I understand at least one of them, the understanding was put in that it would be removed if the area was designated as wilderness.

Mr. BISHOP. Actually, every triangle is a site, so you have a whole lot more than just two that you are dealing with in this area. I also want to thank you for saying in your written testimony that you are willing to work with me to address the concerns that we have raised, and I hope those efforts will be fruitful. I hope you are standing by that.

Mr. GROENE. Certainly.

Mr. BISHOP. And I appreciate the effort of the Southern Utah Wilderness Alliance. They have met with me on three different occasions already.

Could I just request, since you did request or refer to a clean bill that would be better, if the Southern Utah Wilderness Alliance could provide us or at least my staff with a draft bill that you think would be a better way of stopping nuclear waste coming into Utah?

Mr. GROENE. We would be happy to do that.

Mr. BISHOP. Mr. Bear?

Mr. BEAR. Yes.

Mr. BISHOP. First of all, let me give a caveat here. I appreciated having the chance of meeting with you, and let me say that as we have been trying to work with different groups on this particular bill, I have an apology that we should have hit you up and your organization sooner than we did, and I apologize for that. But I appreciate having the chance of working with you and your attorney and staff, and you have been very kind.

Mr. BEAR. Thank you.

Mr. BISHOP. And the words that you put in your written testimony about me, I appreciate that significantly.

Can I ask two questions? The first one is, specifically, are there any kinds of cultural, native Goshute activities that you think should be included in any kind of wilderness proposal for the Cedar Mountains to be protected?

Am I out of time, Mr. Chairman?

Mr. RADANOVICH. Go ahead and finish your question, and then, we will move on.

Mr. BISHOP. Well, let me give these last two ones, and I will do that. First, that was the first one, and maybe a yes or no would be easy.

Second one is very simple to this one, and it is the Atomic Safety and Licensing Board talking about the proposed site said the Board said that there was a credible—that therefore, a credible event—there was a credible possibility of an accident taking place on that site and therefore a credible event and that no license could be issued until PFC proves that its proposed facility could withstand such an accident. If PFC should choose to pursue the matter—and that is part of the issue that is still going before there—in addition, we have provided testimony that was presented by the State of Utah on September 18, which has six separate expert assessments of simulation aircraft accidents happening on this particular site, in each case on above-ground, high-level nuclear waste storage casks with catastrophic results, as decided by a system of scientists who are in Purdue, and that will be expanded in the future.

If those studies are accurate that the level of safety is above the mathematical level of acceptability that the Atomic Safety Licensing Board will accept, is the Goshute Band still persisting or willing to continue on with their pursuit of this particular site?

Mr. BEAR. OK; let me answer the first question, and the answer to that is yes, there are significant cultural and traditional affiliations to the land out there in the Cedar Mountain Range. Actually, the Goshute Tribe used to roam that area. We roamed in 7.3 million acres of the West Desert. And so, that is a significant site, the Cedar Mountain Range.

Second, yes, the tribe, as far as the economics, we will move forward, and apparently, we would have moved forward with this issue. We started this issue back in 1989 with the DOE, with the MRS, learning about storage of spent fuel, and the tribe has taken—has put in a lot of years on this training. And, of course, this process here, the license process, has taken longer than the tribe had expected. It has taken up to 7 years. And that is just to make sure that everything is kosher with the regulations and the NRC.

Mr. BISHOP. Thank you, Mr. Bear. I apologize for throwing those out very quickly.

And, Mr. Chairman, thank you for allowing me to go over.

Mr. RADANOVICH. That was the longest question I have ever heard, Mr. Bishop.

[Laughter.]

Mr. RADANOVICH. The Chair recognizes Mr. Schiff for 5 minutes.

Mr. SCHIFF. Thank you, Mr. Chairman. I will not use the full 5 minutes.

I want to thank the gentleman from La Canada, Councilmember Portantino, for coming and testifying today, and I would merely like to point out that this bill is not a new bill. We introduced this bill last session. It passed in the full Senate. It was reintroduced at the beginning of this year. It again passed in the Senate.

So this is not a new idea, and we have encountered no regional opposition at all, notwithstanding the letter or two that has been provided to us today. In fact, the communities that we have inquired about in the region are all in support. The city of Burbank

has passed a resolution in support. The city of Glendale has passed a resolution in support. La Canada has passed a resolution. Pasadena has. South Pasadena has. The representatives of the area, on a bipartisan basis, support the measure. And we have encountered, really, no opposition up until the comments of the gentleman from the American Land Rights Association.

As the gentleman from the Park Service mentioned, if the study is approved, there will be an extensive public comment period, and there will be ample opportunity for anyone that has any concern to raise that. We really do not presuppose an outcome, but we would like to have these two agencies put their heads together and decide what best framework can manage and preserve the resources in the area, and we plan to be fully respectful of any private property interests and would very much look forward to the opportunity to work with the Committee on this legislation, and I thank the Chairman, and I yield back the balance of my time.

Mr. RADANOVICH. Thank you, Mr. Schiff.

Mr. Cannon?

Mr. CANNON. Thank you, Mr. Chairman. I would like to thank the witnesses for being here today, including Mr. Vollman, whom I have not seen for maybe 20 years but who gave me my introductory law course in Indian law some time ago.

Mr. Groene, I received a phone call from your Executive Director, Larry Young, who indicated that your testimony would be slightly antagonistic but that he wanted to express your group's view that you would like to work on the issue.

I am not interested in where you want to end up, particularly, on this, but have you actually—let me just say that in recent years, the communications have been much better with the Southern Utah Wilderness Alliance, and I appreciate that. But in this case, have you all internally looked at where you want to end up, evaluated that in the context of what is possible, because there is very little that is new here today and are, in fact, interested in actually moving toward a—or do you think that there is a solution that we can agree on ultimately?

Mr. GROENE. I can tell you that I think that our involvement has always been with the intent of trying to find a result that we could live with as legislation.

Mr. CANNON. So we do not have anything new in mind as we go forward on this one.

Mr. GROENE. I am sorry?

Mr. CANNON. You do not have anything new in mind as we go forward on this one?

Mr. GROENE. Anything new in mind?

Mr. CANNON. That might lead us to an actual bill that would be passed, that you can support.

Mr. GROENE. Well, I think that, as you say, the discussions, I think, have been good, you know, and between our offices, and we have appreciated that.

On this, our position right now at the hearing has been that this may be premature, because we were not able to measure what this legislation would mean for the West Desert Wilderness absent a map and clarifications on some of the language.

Mr. CANNON. Thank you; I appreciate that.

Mr. Johnson, you quoted the Governor talking about how the extremes do not ever work out and mentioned the Governor's principles in Libra or in balance. I do not mean to put you on the spot particularly, but do you have a way of describing the extremes other than the position taken by parties that are most opposite that would, say, take into account the reasonableness of the positions at the philosophical extremes?

Mr. JOHNSON. Do I have a way of describing those extremes?

Mr. CANNON. Or I heard the Governor talking about it.

Mr. JOHNSON. Sitting with a tape recorder running, you are wanting me to describe the extremes?

[Laughter.]

Mr. JOHNSON. No, I think the Governor's position and certainly mine in the years that I have been involved with this is that we tend to have polarized with really quite extreme views on both sides of these issues and that the result of that polarization is that we do not get anything done.

I think on any issue, whether it is public lands or not, and it is most apparent in public lands issues, that really is unfortunate. It is very unfortunate. And I believe that we have slowly started to pull away from those polarized positions, and we are starting to work more toward some consensus-building and some collaborative efforts that are starting to erode, you know, that long polarization. I think that is good; it is healthy; and it is important that we do that.

But this, in our opinion, we have largely been held hostage by extremes in the State of Utah for quite some time on public lands management issues, and I think we need to resolve that. I think the fact that Mr. Bishop has talked to so many people about this bill and that he is trying to create a situation where, you know, these economic issues and mineral issues and, you know, good, beautiful land issues can be proven to coexist side-by-side and sometimes overlap, I think that is a very good thing.

Mr. CANNON. Thank you, and I yield back, Mr. Chairman.

Mr. RADANOVICH. Thank you, Mr. Cannon.

I have got a couple of questions for Mr. Portantino. I just wanted to ask you, my experience in Washington and on private property rights issues have been interesting, and I have learned a lot from some of the folks who live in the Eastern United States, where there is a very small percentage of Federal landownership. And we were trying to demonstrate to them their idea when someone from New York puts in a bill to take half of Utah and put it in the public land system, and I always point out the state park, which is the Adirondack State Park in New York, which is a huge park, and suggest that they submit a bill putting that into the Federal park system, and they say, well, we feel that in New York, we can better manage our resources at the state level.

[Laughter.]

Mr. RADANOVICH. And, you know, it does come to mind on this, because I understand in your testimony that there was some state participation in the original Rim of the Valley legislation and would like to get an idea from you of why that—what is the history of it? Why do you think it should be national?

It has been my experience, quite frankly, that the farther away the land manager, the more anti-access that they get and that you might not be realizing what you are getting by asking for more involvement in something like this. So I guess my statement or my question is what was the role of the State in the formation of the Rim of the Valley and why not seek a state level for the expansion of something like this?

Mr. PORTANTINO. Well, I think I will take the second part first. This particular area has interest from local, state and national organizations. I mean, we are at the foot of the Angeles Crest National Forest. We are within the sphere of influence of the Santa Monica Mountains Conservancy. The local communities all have land within our jurisdiction that abuts this land. So I think when you have so many different interest holders touching each other and in some cases overlapping each other, it just makes sense to have a comprehensive plan to study how it impacts all of us, and my experience on the local level is most of our land disputes or, you know, I hate to use the word litigation or problems come about when we have not planned, when we have not identified a piece of property, when we have not informed the stakeholders, the property owners, of what is going to happen in the future. And that is when people are blindsided.

So I do look at this as not presupposing an outcome and focusing on studies. And your question would be answered in great detail once you had all those stakeholders together to study the impact of this. And I think it is a rare location that has so many different interest holders, you know, basically on top of each other but with no comprehensive plan to pull them all together.

Mr. RADANOVICH. You mentioned, too, in your testimony that the Santa Monica Mountains National Recreation Area is far from complete. Does this represent, the map up there, represent more your view of what that Recreation Area ought to be, I would assume?

Mr. PORTANTINO. Yes, it does, if you could put it back up.

You know, again, the Santa Monica Mountains Conservancy has been—initially was started just along the coast with the Santa Monica Mountains Conservancy. And as the ecological and the scientific community has supported habitat migration and how this whole region works together, the sphere of influence of the Conservancy has expanded eastward and, again, with support of local communities. And I think that is an important point to emphasize, is you do have the local communities welcoming this study with open arms and welcoming the possible expansion of these influences, and just to have everybody in the room is just—it is a win-win, we see it. I hope that answered your question.

Mr. RADANOVICH. Thank you, sir.

Mr. Hardiman, from your testimony, I get the idea that the Park Service needs to address existing inholder matters before consideration is given to expanding the Recreation Area. Am I correct in this, and can you expand on that a little bit?

Mr. HARDIMAN. Yes, thank you, Congressman.

The Park Service generally—property owners that are legitimate, willing sellers are generally ignored by the Park Service. The Park Service holds their money aside to go after people who are unwilling sellers.

Another thing I wanted to point out, Congressman Schiff mentioned several municipalities that have passed resolutions. By my reading of the map, all of those towns are exempted out of the study area. They are carved out of the area. So they are not affected by this Federal zoning overlay.

Mr. RADANOVICH. Meaning that—well, there are no cities or towns that are within that Recreation Area, right?

Mr. HARDIMAN. This massive, proposed expansion includes all of—essentially all of the nonurban areas. So these towns passing these resolutions is very nice, because they are not going to have to deal with the National Park Service climbing down their throats.

Mr. SCHIFF. If the gentleman will yield.

Mr. RADANOVICH. I will tell you what: I will give you time afterwards.

Mr. SCHIFF. OK; thank you.

Mr. RADANOVICH. If you would like, Adam.

I would like to ask of the 42 percent that is private property ownership within the proposed area, do the property owners that are even within, you know, we know that this is not a line drawn anywhere yet officially, but do the people who are included in the proposed boundaries that are private property owners, do they have a good sense of the fact of whether they are in it or not yet?

Mr. HARDIMAN. Well, I will refer to testimony submitted by Michael Lewis to this Subcommittee on September 27, a hearing you had out in the valley, which is in opposition to this legislation. Actually, the way it is now, even, the private landowners are the ones who provide most of the recreational access, sometimes in cooperation, for example, a trail head and a trail goes into the public lands, but for the campgrounds, equestrian, for the most part, the recreational access is permitted by private property owners, even as it is now.

So it is a reverse situation of the more public lands you have, the less public recreation there is.

Mr. RADANOVICH. Thank you, Mr. Hardiman.

Just so I can get a consensus from the Committee—I am going to recognize you, Adam, for 5 minutes—will there be any other people asking questions?

OK; you are recognized for 5 minutes, Adam.

Mr. SCHIFF. Thank you, Mr. Chairman.

Just a couple quick points. First of all, I do not think it is accurate to say that the cities are not included within the boundaries of the Rim of the Valley. There are some areas, for example, the Arroyo Seco that goes right down through the heart of Pasadena and South Pasadena. So these cities do very much have an interest in the management of the resources and having an ability to work cooperatively with authorities on the local, state and Federal levels.

Moreover, you know, I think that the Chairman's point is a very good one in the sense that many of these issues are very geographic-dependent, and in some areas, there has been a very positive relationship between the Park Service and the local communities and the private landowners; in some areas, it has not been very good. The track record in the Santa Monica Mountains Recreation Area, I think, has been very good, as the gentleman from the Park Service alluded.

There has been very strong cooperation within the existing area, which is, I think, why, on a bipartisan basis, the members of our delegation from Southern California are supportive of the legislation. Had it been otherwise, had there been a lot of problems in our region, I do not think that would have been the case. But the track record has been a positive one for the communities, whether they are very conservative, like La Canada, or they are more progressive, like Burbank, which is sort of half and half, are all supportive that have provided input, and I would assume that, in fact, I would be surprised if any of the communities took any position other than support.

Mr. RADANOVICH. If you would yield, I would have a question of you, Adam, and that would be are the private property owners that are included in the proposed boundary, do they live in any of the incorporated cities that have come out and endorsed this project?

Mr. SCHIFF. Well, I mean, there are certainly areas, I would imagine, and I have not gone parcel-by-parcel, but certainly areas within—I know, for example, which goes up into the foothills within La Canada, which is—are there areas of La Canada that are also within the Rim of the Valley?

Mr. PORTANTINO. Yes; we have about 1,000 acres that go right into the Angeles Crest National Forest within our sphere of influence that are not developed currently, just 1,000 acres. And half of it is owned by public entities, and half of it is owned by private entities.

And I had one other point, if I could, Mr. Schiff: we just bought a piece of property from a private property owner that was going to develop and deny access, recreational access, and by the city in cooperation with the Santa Monica Mountains Conservancy purchasing that access to the Angeles Crest National Forest, we are actually making it available for recreational use where it would have been prevented.

Mr. RADANOVICH. Thank you.

You have the time, Adam.

Mr. SCHIFF. Well, I thank the gentleman. I really just wanted to add, in conclusion, to thank the Chairman for allowing me to participate on the panel as well as earlier, so thank you, and I yield back the balance of my time.

Mr. RADANOVICH. Certainly.

I want to thank the gentlemen for your testimony here today. It has been very valuable. I appreciate your making the trip to Washington, and that concludes, since we have no more panels, all of the testimony that we are receiving today. I want to thank you very much, and this hearing is ended.

[Whereupon, at 4:06 p.m., the Subcommittee adjourned.]